

Safe to Return?

Pakistani women, domestic violence and access to refugee protection – A report of a trans-national research project conducted in the UK and Pakistan

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Sajida Ismail

Meg Allen

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Summary: Safe to Return?

Pakistani women, domestic violence and access to refugee protection – A report of a trans-national research project conducted in the UK and Pakistan

Nadia Siddiqui, Sajida Ismail, Meg Allen

The WASP research project was a trans-national study of the complex issues which impact on Pakistani women who might seek refugee protection in the UK against domestic violence. In the UK, the study was principally concerned with examining the ways in which the Home Office's Border and Immigration Agency, the immigration judiciary and other relevant service providers address the legal, welfare and other support needs of Pakistani women as asylum seekers. In Pakistan, the focus was to examine the nature and extent of domestic violence, of service provision to protect women across all sectors, and to document women's experiences of attempts to gain safety. It also examined the reality of women's attempts to relocate intra-country, with particular reference to the internal flight concept.

The research raised a wide range of issues which are addressed in depth in the report; here we highlight some of the main themes which emerged from the study.

1. The concept of 'refugee protection' – As a form of safety against domestic violence this was an unfamiliar concept to many women and service providers in Pakistan.
2. The diversity of women's experiences – There was a need to deconstruct understandings of domestic violence and build a strong conceptual framework recognising the diversity of women's experiences. This necessitated a move away from singular 'culturalist' notions of violence and instead an examination of the interplay between gender, culture and race.
3. The context of violence – Our analysis highlighted the ways in which structural, political, cultural, and racial frameworks in Pakistan and the UK were central to the creation of conditions in which women could be subjected to violence. In the UK, for example, this was indicated by fundamental inadequacies and injustices within the immigration and asylum system, whereas in Pakistan, this was demonstrated by the way in which religious and cultural norms were bolstered by a corrupt political system. Our analysis indicated that a credible political, legislative and judicial framework in Pakistan which demonstrated a genuine resolution to end violence would significantly influence Pakistani society's perception and treatment of women.
4. Perceptions of Pakistani women asylum seekers – The research indicated that the prevailing perception within the UK asylum system is that the 'typical' Pakistani asylum-seeking woman is an economic migrant. Women who seek asylum are often constructed as 'immigrant women', who are defined by their connection to practices such as arranged marriage and gender subordination, which are perceived as somehow 'backward' (Gedalof, 2007). Within this representation Pakistani women are firmly sited as homogenised symbols of unchanging cultural traditions and so are inevitably 'victims'. As a result any claim a woman might make to a particular experience of victimisation remains obscured. The claim of victimisation by a Pakistani woman becomes less credible when seated within such constructions and the focus can more 'plausibly' shift to the suggestion that the desire or need for economic gain is central to that claim. This analysis highlights a specific experience of domestic violence that is structured by a 'minoritised' woman's minority status as an immigrant or asylum seeker. It exposes the fact that in domestic violence discourse, there has been a tendency to privilege 'gendered' experiences of domestic violence over 'race' or cultural identification.
5. The role of women in Pakistan – Within Pakistan, much of our material drew attention to Pakistani society's perception of the specific nature of the role of women hindering women's potential for progression to independence. Significantly, within the UK's asylum system similar conceptualisations of Pakistani women exposed flawed approaches to decision making. These

included difficulties in grasping complexities within women's circumstances, for example, whilst some women lived as 'lone' women, they did this at the risk of experiencing 'legitimised' harassment, potential harm and also risked serious consequences for their 'reputation' and their family.

6. Minoritised women – 'Other' women who are similarly presented in problematic terms, include 'abandoned women' and non-Muslim Pakistani women (for example Christian women) and Ahmadiye women. These women do not fit into existing models of asylum and do not fit into prevailing conceptualisations around gender, violence and national responsibilities for service provision.
7. 'Culture of disbelief' – The research revealed a continuing 'culture of disbelief' with the Home Office which contributed to the difficulty of evidencing violence in asylum cases. Evidence in domestic violence asylum cases consists of 'subjective' and 'objective' material although our analysis suggested that most Pakistani women are not able to present such a body of evidence, and, furthermore, however compelling such evidence might be, would not succeed in persuading most decision makers. They identified a number of specific factors connected to women's class, women's own perspectives and understanding of violence, the nature of the Home Office's COIS country reports, the role of expert evidence, and the 'culture of disbelief' which appeared to pervade decision-making.
8. Internal flight – The controversy surrounding the concept of internal flight stems from the lack of uniform and principled application of it by decision-makers. Despite this confusion and lack of consistency, it is increasingly used to deny Pakistani women asylum when they cannot produce 'enough' or 'appropriate' evidence to negate it. Whilst decision-makers appear willing to attach some importance to the impact of internal flight on children, there is insufficient consideration of potential harm to the mother. Developments on the meaning and scope of internal flight are ongoing in asylum case law. Nonetheless, as indicated in the preceding section, the credibility of evidence on concepts such as internal relocation is perceived to be undermined by the notion of a pervading 'culture of disbelief'.
9. Service provision in the UK – Domestic violence support services in the UK were consistently perceived to be poorly resourced, thin on the ground, over-subscribed, culturally unaware or, at times, culturally inappropriate. These were also described as being at their most inadequate at 'crisis point' leading to 'service breakdown'. A common perception, particularly of the statutory sector, is that they were often unwilling to intervene; whether that was due to complacency or to avoid being culturally insensitive. Service providers could unwittingly reinforce negative cultural perceptions of Pakistani women by simply failing to respond to women's needs. Services which specifically came under scrutiny were those provided by interpreters, the police, legal practitioners, health and social care providers, and women-specific services. Criticisms of Home Office policy and practice which contributed to the perpetuation of violence against women also pervaded much of the discussions. These failures in practice were seen as potential deterrents for women who might be considering seeking protection from violence. A woman's fear of racism from service providers, and from the immigration and asylum system, was more likely to limit her disclosure of violence and keep her in violent circumstances. The immigrant-specific factors which exacerbate Pakistani women's already vulnerable position illustrate the critical point at which these women are likely to retreat from services, a point at which they are most likely to need them. What is often deemed to be culturally-sanctioned behaviour renders many women silent with fear, undermining self-protection to safeguard family honour.
10. No recourse to public funds – the rule on 'no recourse to public funds' (NRPF) came under criticism in the research as did the system of accommodation and support administered by the Border and Immigration Agency (BIA; formerly administered by NASS). The NRPF rule now represents a major and serious barrier to accessing services and justice. It is regarded as underpinning the reasons why many women with insecure immigration status are unable to leave violent relationships. The asylum support system in the UK presents further problems. Contradictory responses from the BIA to women's refugees concerning provision of resources for bed spaces have led to much confusion about its stated policy and implementation of it, a problem compounded by inconsistencies in practice across different regions.

11. Service provision in Pakistan: service 'breakdown' – There are parallels which can be drawn between deficiencies in both UK and Pakistani provision, although the particularly severe lack of provision in Pakistan creates extreme difficulties and issues for women who are fleeing domestic violence. This inadequacy of service provision in Pakistan can be seen at all levels, from legislation through to over-subscribed women's shelters which are limited in number and in resources, and crucially, to the lack of rehabilitation or aftercare. There is no system of state care or re-housing for women made homeless following violence; this fact alone plays a major role in the decisions many women make to return to violent relationships, exacerbated by their weak socio-economic position, lack of education and financial dependence. Additionally, the attitudes towards women who attempt to live without a male relative that pervades society in Pakistan results in their isolation and ostracism, exposing women to further risk of harm.
12. Shelters in Pakistan: specific concerns – The majority of shelters are grossly under resourced and offer very poor or no childcare provision. Policies within shelters which exclude boys over the age of five create severe dilemmas for women, and provide disincentives to access shelters. They are usually overcrowded, provide sub-standard facilities, rarely have a key worker system, offer poor working conditions, no casework supervision, and no training or worker accountability. The workers often appear to run shelters with very little input from trustees. Life after leaving a shelter often means returning to a violent situation, remarriage or returning to the natal family if they are willing or able to allow her access. In the absence of any of these 'options', women are often open to sexual exploitation to support their children and to avoid destitution.
13. Services for young women and girls – The absence of specific provision for young women and girls, reinforces the complex relationship between perceptions of girls in particular, as adult women, and the lack of attention to their specific needs in domestic violence contexts.
14. Building an infrastructure for service provision in Pakistan – Given the poor state of service provision for women in Pakistan, a thorough review and evaluation of existing services and of future need in each of the regions, including both rural and urban areas, is urgently required to begin the process of building infrastructural support which can respond to women's crises speedily and effectively.
15. Training for service providers – Calls continue in the UK and in Pakistan for 'cultural awareness' training and training on domestic violence issues for the diverse services we interviewed. However, appropriate training, whilst vital, does not represent an adequate response to attend to the many complex themes which intersect in numerous and harmful ways. 'Cultural' movements in attitudes and behaviour are equally, if not more critical, to laying foundations for protecting women.
16. Consequences of domestic violence – Globally, gender discourse now links violence against women to broader issues of national welfare and development. Women's isolation, contributes to their ill-health and lack of well-being. In many situations women 'disappear', whether from familial threats or, as in the UK, from the threat of detention and removal. This has a direct consequence on their ability to access services and support. Access to education, employment, good health, shelter, financial security and mobility, enabling women to progress and to live as independent and free citizens, is deemed to be 'good for the nation'. Impediments such as physical and mental ill-health resulting from violence, its impact on their ability to become educationally and economically active, and to participate in public life, for example, by making an economic contribution to national development, is likewise deemed to have far-reaching consequences for women, children and society as a whole. Beyond this, there is a need to take into account the underreporting of the cost to society of the intergenerational transmission of violence and of the ensuing resource implications for protecting and empowering victims/survivors.
17. Children – This study aimed to primarily focus on adult women and not on children. We identified a range of situations in which women are defined by their 'childlessness', mothers are themselves treated like children, and where children are deemed to be women. For this study, the overarching feature of these complex intersections was the nature of (predominantly) male power and control, manifested through domestic violence, to regulate women and (usually female) children. This raised two key issues: the role of children if they are present when domestic violence takes place and effects on them not only of what they witness, but also of the process of accessing safety

which they subsequently experience. The central challenge is to continue to find appropriate ways of recognising the 'indivisible and interconnected character of rights' whilst meeting the particular needs of women and children.

State provision for protecting children in these situations in Pakistan and the UK presented the study with surprising information. Whilst there is differential state treatment in the two states on the basis of child protection, support provision for children and custody matters, it is necessary to again bear in mind some parallels. The UK has entered reservations to the UN Committee on the Rights of the Child with regard to protecting their rights to legislate on immigration and asylum control, enabling the UK government to limit its international responsibilities to non-British children.

18. Pakistan and the UK – Throughout the study we have focused on different, yet linked elements of systems and practice within the two countries. Structural commonalities within the different national contexts emerged, maintained by laws, political structures, cultural norms and socio-economic barriers, which maintained women's subjugation. The corpus of material on Pakistan presented a complex picture, demonstrating both the commonalities and differences across regions and cultures within Pakistan. The lack of a welfare system in Pakistan has exposed numerous women to the risk of destitution and yet, within the UK, the 'no recourse to public funds' rule is recognised as keeping many women tied to violent relationships. The inadequate regulation of the NGO sector in Pakistan has contributed to the provision of chaotic, over-subscribed and under-resourced services; conversely, in the UK, the regulatory bureaucracy and audit culture has hampered many service providers from responding effectively to women's needs when they most critically need help. The intersection between abusers' tactics in Pakistan and in the UK is indicative of the heightened dangers women face. Much of the interview material in both contexts described the connections in Pakistan between men, family members, the police and other state agents which effectively coerce many women to remain in violent circumstances; in the UK, the intersection between an abuser's tactics with state laws demonstrates a similar process of 'collusion' in the abuse of women.
19. Safe to return? – In Pakistan, women are required to travel vast geographical distances and to overcome considerable practical, cultural and psychological barriers to seek safety. Conversely, the vastness of geographical possibility within Pakistan is frequently relied upon in UK asylum and immigration contexts as an opportunity to relocate to 'safety' without 'undue hardship'. The tensions presented by these opposing positions suggest a need to explicate what 'safety' in the context of this study means. Notions and concepts of safety, commonly associated with the provision of and access to physical, material, structural, social and psychological support are heavily circumscribed. This study has demonstrated the limited and temporary circumstances in which women reach a 'place' which can be deemed 'safe'. The specific conditions relevant to women in both Pakistan and the UK (where they may face involuntary return), place most women in circumstances which, rather than offer safety, heighten potential danger.

There are similar tensions when considering where in Pakistan a woman should 'return'. This study demonstrates that women cannot return to the place, house, family or situation from which they have fled. A woman's return therefore has to take her to a new 'place' within Pakistan, but her safety is not assured by geographical distance since, for example, she is likely to lack support networks, be isolated, and be unable to retain anonymity. In a UK context, return is more commonly associated with an involuntary process of removal to a 'safe' airport in the country of origin, beyond which the UK state is absolved from any further responsibility. For the purposes of this study, this is indicative of further structural parallels between the UK and Pakistan and misconceptions concerning the nature of 'return' and dangers to women.

20. Potential areas for further research
- Further quantitative and qualitative evaluation in both the UK and Pakistan across a wider geographical remit following up barriers to, and gaps in, legal and other support services that have been identified in this study.
 - Examination of how the interests of children and women do and do not relate in cases in which domestic violence and asylum issues intersect, in a national and trans-national context.

Specifically with regard to children, the impact of these issues on their physical and mental health, their well-being, education and their perceptions of how systems and services operate to protect them. Additionally, the nature and extent of provision in shelters for children, the interface between shelters and other services providing for children both in the UK and Pakistan and the particular challenges for children in these contexts.

- Further study of developments in the definition of 'membership of a particular social group' in relation to evolving and emerging concepts and definitions of violence. This should include an exploration of how, keeping in mind the importance of the Convention ground, it nonetheless gives rise to conceptual challenges imposed by tensions between notions of particularity and generality as applied to Pakistani women.
- A detailed investigation into the long-term physical, and psychological effects for Pakistani women and children of seeking refuge and protection against domestic violence.
- Research to devise and develop services in the UK and in Pakistan in ways which offer positive interventions for Pakistani women who experience domestic violence, specifically services offering mental health support. In Pakistan, this applies specifically to the development of shelter and crisis centre provision, not only in the context of building on the physical infrastructure of these support services, but also ways in which 'holistic' services are best utilised.
- An examination of the impact of new and emerging legislation in the UK on immigration control and on domestic violence in Pakistan.
- A consideration of the findings of the Independent Asylum Commission's report, due for publication in 2008.
- Beyond Pakistani women, research to identify and establish appropriate links and experiences of other women nationals who seek refugee protection against domestic violence.

A cautionary note: Pakistan, emergency rule and the significance of this study

As this report goes to press, President Musharraf's imposition of emergency rule, suspension of the judiciary and corresponding unrest in Pakistan continue. It is indeed a volatile and uncertain situation. The complexity of the relationships between domestic violence and cultural and political structures in Pakistan, including the parallel legal and administrative systems, means that much more than a cosmetic change of personnel, or even legal reform, is needed to alter this situation. Rather, changes that will make a significant impact on domestic violence rates, and service provision, will need to be structural and systemic. It is anticipated, therefore, that the analyses presented in this report will remain of substantial relevance until such time as the structural, legal, and systemic shortfalls and problems identified here in both the UK and Pakistan are addressed.

Chapter one:

Rationale for the research and design of the study

This Chapter outlines the rationale for the methodological approach of the study. It examines some of the challenges in carrying out research in this field and how they were addressed in the design of the study. The aim of the research was to elicit a rich corpus of material which reflected the experiences of Pakistani women who might seek refugee protection in the UK against domestic violence¹. Women from many countries seek asylum in the UK on the grounds of domestic violence, but Pakistan was specifically chosen as a focus for the research because of the landmark 1999 case of ‘Shah and Islam’. This asylum case set a precedent for the consideration of women from Pakistan as a ‘Particular Social Group’, one which experienced persecution on the grounds of membership of the group and could be considered for asylum on that basis. This ruling seemed to indicate that many women from Pakistan would be well positioned to make a claim for asylum on the grounds of domestic violence. Yet, case work in the UK highlighted a range of issues that recurred across asylum cases and drew attention to apparent flaws in the process of assessment and adjudication, often resulting in the rejection of women’s claims for asylum. In a similar way, women who had come to the UK as sponsored spouses, and had experienced domestic violence, often found themselves with insecure immigration status. By adopting a case study approach, focusing on a country where women had been granted the status of a ‘Particular Social Group’, we aimed to draw out these issues and to create a systematic analytical resource for asylum practitioners and service providers in dealing with cases that involved domestic violence.

The researchers for the project had diverse skills and experiences relevant to the themes of the study and which intersected with many of the service provision needs of women seeking protection against domestic violence. Indeed, South Manchester Law Centre as the host organisation has over 30 years experience of providing specialist legal advice and support to Pakistani women.

1.1 Methodological rationale – the need for a new evidence base

The number of Pakistani asylum seekers entering the UK is well documented by the Home Office (Bennett, Heath et al. 2007). Their Research Development and Statistics department provides comprehensive figures for the gender of those asylum seekers, and also indicates where Pakistani asylum seekers have been dispersed within the UK. However, the figures for dispersal are (1) not broken down by gender and so also (2) they do not give us a clear picture of where women from Pakistan are being dispersed to, or (3) their experience after dispersal. Equally, whilst Home Office country reports give an outline of the context of an asylum seeker’s country of origin, there are several significant flaws and omissions. The Advisory Panel on Country Information (APCI), which has been given responsibility for reviewing the Country of Information Service (COIS) reports produced by the Home Office, provided critical commentary on COIS’s April 2006 report on Pakistan. In that commentary APCI recognised that these reports rely on a small set of secondary sources and only recently incorporated references to certain established international and national NGO sources such as the Human Rights Commission of Pakistan. Moreover the commentary warned of the dangers of over-using secondary sources because of the risks associated with what they call information ‘round-tripping’, a situation which, upon careful scrutiny, might identify COIS itself as the original, therefore

¹ Whilst asylum and immigration law in the UK is applicable in England, Wales, Scotland and Northern Ireland (unlike other types of domestic legislation), interviews were concentrated in England and Wales for this study. The decision to conduct interviews in these two countries was based on the project team’s view that the material gathered would be sufficiently and reliably robust to reflect the aims and objectives of the project.

unreliable, source. The information in these reports is presented without analysis and it is explicitly claimed that no judgment is made as to the quality of the information, or how it might best be interpreted. These issues highlight a need for original, empirical research which offers both the detail and depth provided by fieldwork.

Equally, in designing and developing the study the research team drew attention to a vastly wider set of documentary sources beyond those relied upon by COIS, and which could be critical to inform wider debates on asylum and domestic violence. Specifically designed fieldwork enabled the analytical rigour and explanation required to examine the processes which both generated flight, whether in the UK or Pakistan, and determined the outcome of a claim for asylum. This was particularly the case where asylum was claimed on the grounds of domestic violence, where issues of gender, race and class intersect with those of asylum in both the country of origin and the country of refuge.

This need, for a more systematic, rigorous and complex understanding of the processes which both precipitated flight and decided its outcome, determined the selection of a qualitative research approach for design of the study (see Parker, 2004). The study was designed to identify and draw on relevant participants from both Pakistan and the UK. Qualitative interviewing was chosen as one method which could highlight and examine the range of journeys undertaken by women seeking asylum in the UK, exploring the factors which informed and constrained their choices at key chronological and geographical points in that journey. It also correspondingly enabled the generation and critical evaluation of in-depth accounts of the contexts (at a service based and wider level) in both Pakistan and the UK (Byrne 2002; Mason 2002). The strength of this approach is its focus on specificity, as also consistent with the epistemological framework guiding the study (see also section 2.7 of this report, see Wilkinson and Kiztinger, 1996), so avoiding the production of a homogenized picture of the experience of Pakistani women and generating the detailed context-specific information needed to inform asylum case work. Interviewing was used alongside a range of supplementary methods including: individual (legal) case studies in the UK, a scoping survey in the UK, what we describe as 'familiarisation' visits to a range of service provision contexts in Pakistan, group discussions and the collation of a range of documentary sources across both countries. By using a range of sources and research methods the study aimed to address gaps in knowledge in the field and illuminate the ways in which women's journeys might be shaped.

1.2 A note on terminology in the report

Discussions within the qualitative research methodological literature highlight the need to use appropriate terminology to reflect the model of research and analysis (Parker, 2005). While we would claim to have generated original 'evidence' that both supplements and comments upon available sources, rather than calling this 'data' or 'findings' (and so implying an untenable separation between the research process and its product), we have called this 'material', from which we have elaborated 'analyses'. By this, we are highlighting the interpretive processes inevitably involved in the generation and evaluation of qualitative research. While such research cannot lay claims to being exhaustive (and the selection of samples and geographical arenas is thus oriented to be indicative), it is systematic and generative in its specificity and – as already outlined above – offers a complexity and depth of analysis missing from previous accounts (Somekh and Lewin, 2005). Similarly, this interpretive approach means that we avoid terms like 'triangulation' to describe the relationships between the different research methods adopted in conducting the study, or even between the different parties whose accounts the research documents, as this would imply claims to a spurious (and naïve) realism. Rather we take a perspectival approach that seeks to generate, explore and interpret diverse accounts. (And we use the term 'account' here to highlight how we can not, or rather can only indirectly, infer feelings, beliefs and experiences, through the reports or verbal accounts provided by participants to the researcher(s) (Burman, 1997; Alldred and Burman, 2005; Parker, 2005). This sensitivity to and acknowledgement of the contextually-shaped character of qualitative 'evidence' (which is also true of, but less usually acknowledged in quantitative research), is central to claims made for the 'quality' of qualitative research. Far from undermining its rigour and systematicity, such attention to specificity is understood to guarantee these (Denzin and Lincoln, 2000; Parker, 2004).

Further, in the field of gender and migration, language is often a highly charged and contested arena. Quite deliberate choices had to be made as to the way in which service providers and Pakistani women

who took part in the research would be described, both in the course of conducting the research and in presenting this analysis. All those who were interviewed are usually referred to in this report as 'participants', rather than 'respondents'. While the latter formulation may appear to be a standard social science term, it was recognised that this could (for some readers) confuse the research context with legal process (so also highlighting also the diverse audiences for this report). Moreover, in some cases, the nature of 'participants' involvement went far beyond the passive response indicated by the description of 'respondent', for some of the service provider participants actively facilitated contact with other organisations or women victims/survivors, provided advice, assistance and support to the research and additional written and secondary source information.

There is equivalent debate and discussion regarding how to describe the position of women who have experienced domestic violence (often alongside other kinds of abuse see for example Reavey and Warner, 2003). It has been argued that calling them 'victims' can reinforce stereotypical notions of passivity, which – significantly – are often associated both with Asian women and with victims/survivors of domestic violence. On the other hand, the more recent term 'survivor' – which is prevalent within the Anglo-US literature – has attracted criticism for overstating and presuming (rather than as is part of the remit of this study, exploring) the extent to which women may have overcome or recovered from the impacts of experiences of abuse. Hence, where it seems appropriate we move between alternative formulations. The women survivors/victims who took part in the research were diverse in their backgrounds, interests and in their responses to the experience of violence. Their contributions were formative in the development of the structure and arguments discussed in this report.

The term 'service provider' is also used both in the UK and Pakistan context. While this term is used for the sake of convenience, it is important to note the diverse range of organisations and individuals that this category covers; from the Home Office to a small domestic violence unit in a locality. It is equally important to note that in the UK and Pakistan context the term 'service provider' may describe organisations which are fundamentally different, both philosophically and structurally. In terms of the Pakistan material, we offer a profile of the services researched and at times identify, or otherwise characterise, the specific service from which an account was generated in order to facilitate more adequate evaluation of the significance of the source. It should of course be noted that no participant was identified without securing permission to name them.

Following practice in the two national contexts under investigation here, we write of 'refuges' in the UK context and 'shelters' in the Pakistani context.

Finally, a key set of terms in this report surround notions of 'flight' and 'relocation'. While western domestic violence researchers often prefer to discuss 'escape' rather than 'flight', in the context of this study's focus on national and trans-national contexts for seeking protection from violence and the often forced and protracted journeys undertaken, this criticism seems less relevant. Where possible, and in due respect to the often very significant temporal and geographical distances traversed (whether intra- or trans-nationally) as well as to offer a less loaded formulation, we discuss women's 'journeys'. There are of course different meanings associated with notions of 'relocation', 'internal' vs. 'trans-national flight', alongside key substantive issues at stake for this study in precisely what is understood by 'safety', 'protection' and 'return'. We deal with these as analytical topics in the analysis and final discussion.

1.3 Overview of the research

In order to gain a coherent and comprehensive view of the complexities of (intra-country or trans-national) flight and relocation involved in seeking protection against domestic violence, the research drew on a wide range of participants in Pakistan and the UK who would be working with women's cases at various stages in the journey. This included service providers, policy makers and women themselves. The effects of domestic violence, asylum and insecure immigration on children are discussed in the report, as they were raised as issues during the field work – including the ways children impact on women's decisions, the limits of service provisions to women with children, and in some cases (of child brides and forced marriage for example) as direct participants within the research (taking the definition of 'child' as under 18 years, as specified by the United Nations Convention on the Rights of the Child). However children did not directly participate in the research in the sense of being interviewed separately, (with one exception – see section 2.2.1) or their specific perspectives

taken as the topic of study. We would therefore emphasise that there is an urgent need for a specific, dedicated study addressing this gap.

The study used semi-structured schedules in face to face individual and telephone interviews but, in recognition that interviews alone were unlikely to generate the depth of information we required for the study (Silverman 2003), the research also employed group interviews and case studies in the UK and in Pakistan. There was also an extensive survey conducted in the UK which drew on professional networks to identify service providers working with this client group. Lastly, the researchers carried out an initial literature review of the field which was used to contextualise the conduct of the research and inform the development of the interview schedules. This review was supplemented during the course of the study as the fieldwork also generated access to further, previously unknown sources, and a range of source material was collated and used to inform this final report, including government documents in Pakistan as well as material from NGOs and local service providers.

In using mixed methods the research aimed to generate material from a variety of sources to ensure thorough evaluation of relevant material, including its remit, strengths and limitations, to inform coding and analysis (Barbour, Rosaline et al. 2001). Thus this range of sources enabled the researchers to attend to diverse perspectives and evaluate the contribution of different sources of evidence in producing different perspectives and interpretations (see also Stronach, 1997).

Overall the research consisted of –

Pakistan based research in the geographical regions of Punjab, Sindh and the North West Frontier Province:

- 33 familiarisation interviews / discussions conducted on site with service providers and organisations.
- 46 individual face to face interviews with service providers and organisations, drawn from above.
- 25 individual face to face interviews with women who had experienced domestic violence in Pakistan.
- 7 group interviews / discussions with between 8 and 30 women who had experienced domestic violence, and with service providers.
- 4 case studies, drawn from the accounts of the experiences of women participants' resident in shelters spread across the geographical regions described above.

UK based research in England and Wales:

- A postal survey which was sent to 971 service providers and other organisations (158 final respondents).
- Follow-up telephone individual interviews with 25 service providers and other organisations to supplement the survey response.
- 28 individual face to face interviews with service providers and other organisations drawn from above, and additional written feedback from the Home Office.
- 8 individual face to face interviews with Pakistani women claiming asylum on the basis of domestic violence.
- 1 group interview / discussion with 9 participants, composed of 3 service providers and 6 women asylum seekers.
- 4 case studies, focusing on specific cases in process at South Manchester Law Centre during the time period covered by the study.

In both countries the research took part in two phases. The first phase consisted of a scoping or piloting stage, where key informants and organisations were identified. In the UK this comprised a postal survey, and in Pakistan it consisted of a field trip where 'familiarisation' interviews with relevant stakeholders in the research took place. The familiarisation interviews were intended to identify potential participants and give a broad understanding of the practices and systems in Pakistan concerning domestic violence. This phase was used to inform the topics and areas of questions structuring the schedules, and to pilot schedules with a small sample of potential participants. It should be noted that this initial phase was conducted differently in the UK and Pakistan, in recognition of

the need for different methods in the two contexts. The rationale for the two approaches is described in the following sections. The second phase consisted of field research in both the UK and Pakistan, carrying out individual interviews, observing key contexts of practice and facilitating group discussions.

1.4 Methodological challenges

The aim of the WASP research project was to generate a more informed understanding of the issues faced by Pakistani women in attempting to escape domestic violence and claim asylum in the UK. There were several key substantive research questions which needed to be addressed by the study in order to realize that aim. These questions emerged from case work at South Manchester Law Centre and from an initial literature review of research. The questions were refined and developed with the collection of further material during the familiarisation interviews in Pakistan and the scoping exercise in the UK. These questions were used to frame and focus the research in order to ensure that the results could contribute to the knowledge base used by case workers, service providers and decision-makers:

- What was the viability of internal relocation for a Pakistani woman who had left her home in Pakistan as a result of domestic violence?
- What was the range, accessibility and effectiveness of service provision for women who had experienced domestic violence in Pakistan and the UK?
- Were there any gaps in provision for, or unmet needs of, Pakistani women seeking asylum in the UK on the grounds of domestic violence?
- What barriers were there at each stage in the journey, in terms of access to justice in the asylum system, for Pakistani women seeking protection in the UK on the grounds of domestic violence?

These research questions informed the design of the research and guided initial discussions with participants. Moreover, the researchers were also concerned to document diverse perspectives and to elicit a broad range of responses. This was reflected in the choice of a range of methods and participants.

1.4.1 Issues in trans-national research

Carrying out trans-national research in this way presented several methodological challenges. The differing contexts in the UK and Pakistan demanded different approaches to the research design, particularly in the first phase of the work.

In Pakistan, services for women who had experienced domestic violence were largely acknowledged to be sparsely provided and poorly resourced. Such services often relied on local NGOs, local activists, or even philanthropic individuals, for their survival and were found to be very diverse in their structure and focus (analysis of the Pakistan context is presented substantively in Chapters four to seven). In some services provision involved male workers and organisations were sometimes led by men as this was perceived to provide some degree of protection to the women service users and workers. Equally, services which provided support to women victims/survivors in Pakistan did not necessarily have domestic violence as their main focus of work. Many organisations that took part in the research focused on supporting families, and saw their role in terms of mediation and reconciliation within the family. It was important in generating and interpreting the research to be clear about the very different philosophical approaches towards domestic violence service provision operating within the two countries. Yet, to achieve a balanced and accurate interpretation of the emerging trans-national nature of barriers to women, it was also necessary to highlight apparent parallels between the UK and Pakistan in limitations to service provision (these issues are discussed in depth in Chapters eight to ten).

In Pakistan the professional networks of such services and regulation within the sector are also in their infancy. We note these issues here to clarify the asymmetrical character of domestic violence service provision in the UK and Pakistan, and to indicate the challenges and limits to conducting trans-national research on this topic. This is reflected in the availability of information, as monitoring and evaluation data was not as easily available in Pakistan as in the UK. Much information was sourced from newspapers for example (and here it is significant to note that both government and non-government agencies often appeared to rely on press coverage of cases to assemble their statistical profiles of

domestic violence). Furthermore, most of the information was held within informal networks and knowledge about the prevalence, and issues surrounding, domestic violence was available from individual, rather than formal, sources.

In the UK services for women who had experienced domestic violence, or were seeking asylum, were formalised, networked and regulated (in the sense of being set out in national or publicly available policy documents, with agreed standards). They were usually run by paid workers, operating within a professionalised structure, and levels of service provision were comparatively much better resourced. Resources were also usually provided through more formal institutions and service providers often had to formally report to funding bodies and make information about the service available in the public domain.

Such differing contexts demanded different methods to identify research participants. As is described later in the Chapter, in the UK participants were identified through a survey which used formal networks, while in Pakistan the researchers used informal networks, 'familiarisation' visits and 'snowballing' to contact potential participants. Despite these different methods, the sampling in both countries ensured a final group of research participants which included a broad range of service providers and women victims/survivors.

It is also important to highlight the physical and geographical difficulties of carrying out research in Pakistan. Whilst the research focused on specific regions, and largely urban areas, there were still logistical challenges in travelling across great distances whilst ensuring the safety of the researchers. Most of the organisations who were supporting women victims/survivors had experienced threatened or actual violence and most employed security guards at their premises. It was decided that for travel within urban areas the researchers would use the services of a paid driver, who would be available during the research period. The safety of the researchers was also considered in booking hotel accommodation and inter-regional aircraft journeys and, as part of the ethics scrutiny process (see section 1.4.2), the researchers were required to undertake a risk assessment before undertaking the work to ensure that neither they, nor any participant would be put at significant risk as a result of the work.

The focus of the research was also necessarily different in the two contexts. Questions around asylum and migration were of little interest or relevance to service providers and policy makers in Pakistan. The focus there was on domestic violence and its relationship with women's rights within the country. In the UK respondents were interested in the asylum system as it affected their clients, but often had little awareness of the context in Pakistan and the difficulties that clients had experienced in their countries of origin in getting support or accessing services. The differences in the interests and knowledge of the two samples were reflected in the construction of the schedules. Despite this differing focus, wherever possible, the schedules used in the UK and Pakistan mirrored each other and addressed equivalent areas. This was the case for both service providers, policy makers and women victims/survivors and was made possible by using questions which were framed around the chronological journey of the woman, from her familial environment in Pakistan to asylum in the UK.

1.4.2 Ethical considerations in the research

The research plan was subjected to review by the Departmental and University Ethics Committees at Manchester Metropolitan University, the academic partner in the research. Ethics approval was gained prior to embarking on fieldwork. However, there were additional ethical issues which were raised and addressed during the course of the fieldwork which it is relevant to note here.

1.4.2.1 Women victims/survivors, anonymity and confidentiality

In Pakistan the most acute ethical dilemmas encountered were those relating to the needs of women victims/survivors. An indicative example is how, whilst carrying out research in shelters and crisis centres, the researchers found that women sometimes disclosed abuse or mistreatment that they had experienced within the service. The women who raised these issues asked the researcher not to act on the information or to share it with any other party. The women wanted to be able to discuss their experiences, but were concerned that any complaint might lose them their accommodation or lead to them being further discriminated against. That such concerns were expressed already indicates key issues for the evaluation of available service provision. In terms of the research process, it was recognised that even if the women had been willing to share the information more widely, it would have been difficult for the researcher to intervene as there were rarely any formal procedures

that could be followed to report such issues and there were few, if any, alternatives for the women should they lose their accommodation. After discussion with the supervisor and with those providing support in Pakistan it was decided not to act on this information both in order to respect their requests and maintain the women's access to the (albeit) limited services. This example does highlight ethical difficulties of carrying out research within an unregulated sector. We have however included some such responses in our analyses but in such a way as to prevent identification of the specific service as well as the participant.

The impact of the unregulated nature of the sector was also confirmed when in one shelter the researcher encountered two unaccompanied children, girls who were aged seven and thirteen, who had been sold into prostitution and marriage. The researcher was able to interview the child aged thirteen for the study as the particular circumstances surrounding her residence at the shelter appeared to be consistent with the accounts given by women of abuse from an early age. The shelter was an inappropriate place for such young children, but there was no other more suitable accommodation for them and no regulations concerning appropriate service provision for children. The researcher also met, although did not interview, two unaccompanied girls in the advice and resource centre for Christian women run by CLAAS² who were later taken to their shelter.

While participants were all guaranteed anonymity, some women were living 'in hiding' because of the particular nature of the violence they were escaping, notably the threat of honour killings. Additional efforts have been made to prevent specificity of detail from rendering women who were living in such circumstances identifiable. This has meant that, in publicly available accounts of the specific 'case histories' or long accounts of women's stories that we have provided, we have sometimes changed some specific biographical information. Obviously these changes had to be made without compromising the substantive analytical points to be interpreted from the material, for example substituting the name of a city for another in the same region. Given the extremity of some of the circumstances described in these cases, such amendments were deemed a necessary precaution particularly as the report will be widely disseminated in Pakistan.

1.4.2.2. Support needs of women victims/survivors

Women victims/survivors also disclosed issues such as self-harm and during the interviews and discussed painful life events such as rape, or physical violence. The difficult nature of these experiences sometimes resulted in the woman becoming acutely distressed and the researcher had to use judgement and sensitivity to know how far to take the questioning. This sometimes limited what information could be gained from the interview, but it was important to allow the women to have some control over the interview process and feel free to end the discussion at any time. In most cases the interviews were completed but over a longer period, sometimes involving two or three separate visits.

In addition the presence of children at the interviews often interrupted and prolonged the process. The research team were aware of the ethical dilemmas this presented; whether to continue interviews and potentially expose children to distressing information as well as to visibly distressed parents or to negotiate alternative times to complete interviews. In situations where this arose women were often unwilling to be parted from their children and were keen for the interviews to continue. The researchers observed and noted such responses; indeed, the presence and behaviour of children at interviews is elaborated on in later Chapters.

Many women had also been forced to leave their children behind, or had had their children taken away from them. Speaking about such difficulties could also result in distress. Again, it reflected the unregulated and poorly resourced nature of the sector that little or no support was available in the shelters after the interview. Indeed although shelters in Pakistan do have counsellors, it was often unclear how often residents were able to access their services, and indeed it emerged (see also Chapter six) that little or no longer term support was offered. The research team were very concerned about the lack of physical and emotional support available to women within shelters, and were aware that the interviews could raise difficult and painful emotions when there was no adequate aftercare in place. Some women victims/survivors were aware of this lack of support and commented that they had been interviewed before but did not feel they had benefited from the process.

² CLAAS – the *Centre for Legal Aid Assistance and Settlement* is an interdenominational organisation working for Christians who are being persecuted because of their faith in Pakistan. It has offices in the UK and Pakistan.

As a result, the team became aware of a need to provide some, albeit token, recompense for the women victims/survivors' time and commitment to the research. There has been much debate within the research literature about the role of the researcher in qualitative research in terms of feedback, benefit and accountability (Finch, 1984; Ribbens and Edwards, 1998). Hence alongside maintaining an analytical approach to the work of soliciting and documenting participant accounts, provision of additional advice after the woman's participation in the research was seen as delivering on a necessary ethical commitment. This advice typically drew on the researcher's wider knowledge of services in the region. Whilst it was considered inappropriate to arrange payment to an individual woman who was resident within a shelter for her participation, payment in kind was made on an equal basis for the shelters which facilitated access to their residents and helped in the research. This contribution amounted to approximately £50 per shelter and was made in kind, in the form of food (types identified as lacking in the residents' diet – including chicken and fruit), plus in some cases purchase of educational materials for the children. In the UK, individual women who participated in group discussions through their involvement with support groups were offered payments of £20.

1.4.2.3 Consent to participate

With such a vulnerable group of women, who were often living in insecure accommodation, it was important to stress the notion of informed consent and to ensure that the women were informed about the research and what their participation would mean. However, many of the women survivors were not literate and could not read any material about the project, so consequently were unable to give written consent. Instead the research was thoroughly discussed with each woman and her verbal consent gained. Although the researcher did speak Urdu and Punjabi (two widely spoken languages in Pakistan) some women spoke a local or regional dialect as their first language and the first task of the interview was sometimes to agree a language which both the woman and the researcher could use. This meant that whilst the woman might be very competent in the language used in the interview, it was not necessarily her first language. To ensure that the woman understood what was being asked of her, and gave her formal consent, the researcher was particularly thorough in explaining the research and checked with the woman at each point to ensure that she understood. However, this was an inevitably uneven process, and whilst the researcher did not pursue any women she felt were unsure about the research or hesitant about taking part, the research was largely reliant on the judgement of the researcher to ensure that consent was fully informed and fully given.

Despite the significant logistical and socio-political difficulties of conducting research in Pakistan, ultimately the numbers of research participants were higher. This perhaps can be understood in terms of the eagerness with which women victims/survivors and service providers sought to participate in the research. Another factor which may provide an explanation is that the unregulated nature of services meant that service providers sometimes allowed open access to participants with little attention given by them to confidentiality/consent issues. This allowed access to women other than those who had been previously selected by the service providers to be invited to participate in the study. Indeed this posed a further ethical dilemma for the researcher, when women who had not been identified as willing participants by the service providers who were facilitating the research process subsequently approached the researcher and asked to take part. Where possible the researcher conducted interviews with these women and in doing so this can be regarded as compensating for or correcting any systematic distortions introduced by workers' selection of women residents. Again the researcher followed the process of obtaining informed consent as described above.

1.4.2.4 Supporting the researchers

In addition to the support needs of the participants, it should be mentioned that the distressing character of participants' accounts, alongside the often very limited and impoverished circumstances in which residents at shelters and other facilities were living, posed ethical issues regarding support for the researchers. This was addressed during the second field trip by setting up additional support in Pakistan with Farida Shaheed, Director of Shirkat Gah as a relevant and experienced senior researcher specialising in the field of violence against women in Pakistan. We note this matter here as the impact on and duty of care for researchers, as well as researched, is too often overlooked and if unaddressed can also work to compromise the quality and sustainability of conducting research in this area. It is also clearly a relevant consideration for subsequent studies that we hope will take further some of the research questions and issues identified by this study.

1.4.3 Responses to the research

Response rates to the research varied widely both across and within the two countries. In the UK a survey was used to identify service providers who were working with Pakistani women fleeing domestic violence. The rate of response was initially low in this exercise, for a range of reasons. The survey questionnaire was deliberately sent to a large number and range of organisations in order to identify those who were working with Pakistani women, including those who might not usually be recognised for their involvement in such work. Those who did not work with these service users did not see the questionnaire as relevant to their work and did not return. This was expected as the net had to be cast widely in order to identify service providers who had cases or worked with women in this situation. However, in following up the survey questionnaires it was clear that there was a widespread sense of 'research fatigue'. Many of the workers, particularly those working in asylum and immigration, felt inundated with work and were resentful of incursions into their limited time. For workers who were also funded through the work they performed, such as solicitors and some legal case workers, there was also a sense that time was money. As one case worker pointed out -

"We have no financial support, even though these questionnaires are very important we have no financial assistance to cover the cost."

Service providers also responded differently in the UK and in Pakistan. The often informal nature of provision in Pakistan made it very difficult to make initial contact with providers. Making initial contact, and pursuing those contacts to arrange a meeting, demanded a level of persistence that the UK research did not. However, as the research progressed within Pakistan, and participants began to invest in the research, the researchers found that the participants facilitated access to other service providers and to women victims/survivors who were using services. This facilitation was carried out despite a lack of resources and the fact that services in Pakistan were often responding to crisis.

In the UK service providers were easily identifiable and largely responsive once initial contact had been made by letter. However the formal nature of service provision meant that despite an initially welcoming discussion, progression beyond that was at times difficult. Service providers were concerned to protect vulnerable clients and were conscious of issues around data protection and the legal requirements they had to meet. Services in the UK were also often concerned with the possible ramifications in terms of funding, or the requirements they had to meet in terms of provision, which could at times make them defensive or unresponsive to the research. This was illustrated in the response of the Home Office to the research. Several individuals with responsibility for gender, asylum and/or domestic violence policy and practice had initially agreed to be interviewed, but later declined and instead submitted a joint written response.

Similarly NASS³ were invited to take part in the research but stated that, as they had no knowledge of where the asylum seekers they supported came from, they could not be aware of the reason for their claim. When asked if they would be interested in commenting on the other aspect of the research, that of Pakistani women who experience domestic violence in the UK, who might be involved in a joint asylum claim with a partner, they declined and referred the researchers to the NASS policy around domestic violence. It is difficult to make any specific interpretation of the reason for these responses but, especially as in some cases there were implications regarding resources linked to targets, it is hard not to surmise that the topic of the research was such that some service providers and policy makers seemed uncomfortable in being open or transparent about their own systems and practices.

1.4.4 Design of the interview schedules

The design of the interview schedules presented three distinct challenges for the research team. Firstly, the schedules had to be specific enough to draw out responses which addressed the research questions, yet also allow room for emergent themes to appear and to explore the particular perspective of the individual participant. Secondly, they had to be designed to focus on the specific interests of each 'type' of participant, whether an NGO worker a local police officer or national policy

³ During the course of the study, and after the interviews had been completed in March 2007, NASS (the National Asylum Support Service) ceased its operations as the Home Office agency responsible for the asylum dispersal and support system. These functions are now undertaken by the Home Office's new Border and Immigration Agency (BIA), which is now responsible for all issues connected to asylum and immigration control in the UK.

maker, whilst still addressing common themes which would allow for analytic comparison. Lastly, the schedules had to be responsive to the specific contexts in each country, whilst again exploring equivalent narratives and issues to allow for comparison across the two contexts.

In consideration of these issues, the schedules were designed chronologically to identify the key issues posed for a woman victim/survivor at each point in her journey, from the decision to leave her family of origin, or marry outside Pakistan, to her eventual status in the UK. Using this chronological approach allowed the researchers to explore similar points in the victims/survivors' experience from multiple perspectives, and attended both to similarity in themes and specificity in an individual participant's perspective. Where necessary questions were added for specific participants, such as the police, or for policy makers (see Appendix One for examples of the schedules) but the construction of the schedules around a chronological journey enabled the research team to build coherence into the organisation of questioning and the exploration of themes. Equally, despite the differences in the focus of the research in the UK and Pakistani contexts, following a chronological journey allowed the questions in the two sets of schedules to reflect each other and track key stages in that journey.

The actual topics explored in the schedules were informed by the knowledge of the team based in the Law Centre and as framed by the initial research aims. The topics and specific questions were refined by the feedback from the first stage of the research; the familiarisation interviews in Pakistan and the scoping exercise / survey in the UK. The feedback from the first phase identified specific points in the journey of a woman victim/survivor where her choices were constrained by gendered legal, social and economic processes. Feedback from participants in the first phase of the research also confirmed that the initial research questions were appropriate and focused on the areas where there were either conflicts in interpretation or a lack of clear evidence.

In Pakistan the schedules were presented for comment to the following key partners in Pakistan for discussion; the AGHS Legal Aid Cell⁴, PANNAH shelter⁵, the Aurat Foundation⁶ (Peshawar), CLAAS⁷ advice and resource centre and DASTAK shelter, whose feedback provided relevant 'member checks'. The schedules were amended before being used in the second phase of the research in Pakistan.

In the UK, the schedules were piloted with three workers from South Manchester Law Centre who were working with Pakistani women asylum seekers. Feedback from the pilot interviews was used to adapt the schedules so they would be more applicable to specific participants.

1.4.5 Interpretation, recording and transcription

In both Pakistan and the UK non-English speaking respondents were provided with female interviewers who could speak several languages. In this way many of the women victim/survivors who were interviewed were able to respond in their first language. However, this was not possible in all cases, many of the women spoke local dialects and a common language for the interview had to be agreed at the outset any discussion took place. Interviews with service providers in Pakistan were sometimes conducted in English, depending on the preference of the participant.

It was anticipated that all the interviews would be taped and then transcribed for detailed analysis after the field work. However initial work in Pakistan indicated that participants were often reluctant to be audio-taped. Both government officials and local service providers were often more comfortable with note taking and participants such as the police refused to have interviews taped. Equally, women were often interviewed in busy shelters where noise levels made audio recording impractical.

As a result the majority of the interviews in Pakistan were recorded using notes taken during the interview, and completed following each interview with additional notes and observations made about the interview and the context. In order to mirror this method the majority of interviews in the UK were recorded in the same way: interviews were recorded using notes, which were written up with additional observations soon after the interview had taken place. Some interviews with women

⁴ AGHS Legal Aid Cell is a relatively small but important NGO in Pakistan. It was set up in 1980 to provide free legal aid to women.

⁵ A women's shelter based in Karachi.

⁶ The Aurat Foundation is a women's rights organisation based in Islamabad, Pakistan.

⁷ CLAAS – the *Centre for Legal Aid Assistance and Settlement*. *ibid*.

victim/survivors in the UK were audio-taped, but there were similar difficulties with the audio quality of the tape as the interviews took place in busy settings and young children were sometimes present. The recorded interviews in Pakistan were transcribed and translated in Pakistan and the transcriptions were checked by native speakers for errors or omissions as well as by the interviewer. Similarly, any UK recorded interviews were (where relevant) translated, transcribed and checked for errors by the relevant UK interviewer. Citations used in the report are taken from both the recorded and transcribed interviews and from detailed notes taken during the interviews.

1.5 Research in Pakistan

This section outlines how the research was carried out in Pakistan and the rationale for the choice of methods. There were two fieldwork periods in the Pakistan research: November to February 2005-6 and May to July 2006.

In Pakistan it was not possible to identify a sample using formal survey or sampling methods. The scattered nature of provision, and the lack of formalised networks, meant that the field workers had to use less formal methods to contact potential participants.

In Pakistan the research was largely carried out by a sole researcher (Nadia Siddiqui) who could speak Urdu and Punjabi. The researcher had previous experience of carrying out research on related topics in Pakistan (a short field trip in December 2003 and a further trip from May to July 2004 funded by the Winston Churchill Memorial Trust) and had an existing network of contacts around domestic violence and services for women in some of the cities focused on in the research. This researcher carried out all the interviews with women victims/survivors and with the majority of the service provider interviews in Pakistan. Her work was aided by a research consultant from the project team (Yvonne Prendergast) who joined her in Pakistan for a one month period during the second phase of the research to assist with and conduct interviews.

1.5.1 Identifying the research participants

The research in Pakistan involved using systematic non-probabilistic sampling (May, Nicholas et al. 1995; Barbour, Rosaline et al. 2001). This method involved identifying target organisations with specific characteristics; they were working with survivors of domestic violence, or working in this policy area, they had knowledge of the issues surrounding domestic violence and they were part of informal networks working around domestic violence at a regional or national level. The first field trip took place from November 2005 – February 2006 and was used to carry out familiarisation interviews with this initial group of individuals and organisations. The aim of these familiarisation interviews was to –

- Identify which services were working with Pakistani women who had experienced domestic violence.
- Identify the characteristics of those services
- Explore the context in which domestic violence took place and the options for women victims/survivors.

These interviews enabled the researcher to ‘snowball’ contacts and develop a network of relevant partners which could be used to identify further services and to make contact with women victims/survivors of domestic abuse. A second field trip was made in June – July of 2006 where more formal interviews were carried out with both service providers and women who had experienced domestic violence.

The geographical regions covered within the study are Punjab, Sindh, and the North West Frontier Province (NWFP). The geographical diversity and size of Pakistan made it necessary for the research to be limited to specific regions. The experience of South Manchester Law Centre in working with this client group indicated that a sizeable proportion of cases in Manchester originated from the above regions. Equally, although women came from a wide range of backgrounds, including both urban and rural settings, women who left abusive relationships were known to gravitate to cities where they were more likely to access services with a degree of anonymity. As a result it was decided to focus largely on the following key cities: Peshawar in the North West Frontier Province, Lahore, Faisalabad, Islamabad, Rawalpindi, Karachi and Hyderabad.

**Table 1 Participants in the Pakistan research – Phase One ‘Familiarisation interviews’
November – February 2006**

	Punjab	Sindh	North West Frontier	Totals across Pakistan
INGOs	3	-	-	3
NGOs	7	6	2	15
Shelters / Crisis Centres	5	3	-	8
Police	-	1	-	1
Other key Informants	3	3	-	6
Number in each area	18	13	2	33 familiarisation interviews with service providers

Table 2 Participants in the Pakistan research – Phase Two, Field Work May – July 2006

	Punjab	Sindh	North West Frontier	Totals across Pakistan
INGOs	3	-	2	5
NGOs	10	7	2	19
Shelters / Crisis Centres	6	3	-	9
Police	2	1	-	3
Government Officials / Government Minister	2	1	2	5
Other key Informants	5	-	-	5
Number in each area	28	12	6	46 individual interviews with service providers
Women victims/survivors	28	28	28	25 interviews with women victims/survivors of domestic violence

1.5.2 Selecting the sample for the research

The familiarisation interviews enabled the field workers to identify a viable list of over seventy organisations who had experience in working with this group of women. Potential organisations and individuals were then identified on the basis of –

- Experience of working with a woman who was fleeing violence in Pakistan.
- Service delivery to women in one of the three key regions.
- Experience of policy work around gender and domestic violence.

Semi-structured individual interviews were carried out with these participants. The interviews focused on three broad topics; the legal and social context in Pakistan around issues of gender and domestic violence, the barriers that women faced when trying to flee or prosecute violence and the issues that organisations face in providing services to women. Appropriate schedules were devised for the different respondents (See Appendix One) and the final balance of interviews, and spread across the regions, is represented in Tables 1 and 2.

A total of 33 familiarisation interviews were carried out during the first field trip (See Table 1). The time which elapsed between the first and second field trips allowed the research team to reflect on the research and make any necessary methodological adjustments to the study. On the second field trip a further 46 interviews were carried out with organisations and individuals across the three regions, representing participation from a wide range of organisations including refugees, legal representatives,

NGOs, INGOs and government officials. The material generated from both field trips has been used in the analysis. In carrying out the fieldwork with service providers we also identified a sample of women who had experienced domestic violence and were willing to be interviewed. The women were drawn from a range of regions and 25 interviews were eventually carried out, the breakdown of the sample is detailed in Table 2.

1.6 Research in the UK

In the UK the research was carried out by Nadia Siddiqui and Sajida Ismail, the two researchers on the project, with the assistance of a UK based research consultant who joined the project team (Meg Allen) and two researchers from Roehampton University, (Aisha Gill and Aarunima Bhatnagar) both of whom who were Urdu speakers. The research consultant and one of the project researchers (Nadia Siddiqui) carried out interviews with service providers, while one project researcher (Nadia Siddiqui) carried out the focus group discussion with women victims/survivors. The researchers based at Roehampton University were commissioned to carry out interviews with women victims/survivors, using the contacts that had been made through the exercise which identified potential participants (see the description of the scoping exercise in section 4.1).

In the UK the sample was identified using a formal survey questionnaire and by the addition of other key participants. The material gathered from this scoping exercise was analysed by the research consultant in consultation with the project researchers.

1.6.1 Identifying the research participants

In order to identify participants for the research in the UK a wide-ranging scoping exercise was carried out. The aim of this exercise was to –

- Identify which services were working with Pakistani women asylum seekers.
- Identify the characteristics of those services.
- Identify organisations that were willing to participate in the study.
- Identify organisations that could facilitate contact with Pakistani women asylum seekers.

The exercise involved a postal/e-mail questionnaire that was sent to 971 organisations. The experience of the workers at the law centre indicated that women would be using a specific range of services and the service respondents were selected accordingly –

- Citizen's Advice Bureaux were selected, as they have been funded nationally to provide specific services to refugees and asylum seekers across the UK. National CAB provided the team with a list of 361 area bureaux who were sent a postal questionnaire and then followed up by an e-mail reminder.
- All Women's Aid affiliates, who are listed on the national website, were e-mailed the questionnaire and were followed up by e-mail.
- Local Refugee Councils and Regional Refugee Actions were asked to provide lists of local organisations that gave support or advice to refugees.
- Solicitors were selected from the Law Society's list of accredited immigration and asylum practitioners and were sent a postal survey. Some were then followed up by telephone interviews.
- All law centres in England and Wales were sent a postal survey, which was then followed up by e-mail and telephone.
- Local race equality organisations were selected from a list of CRE (Commission for Racial Equality – now merged into the Equality and Human Rights Commission) funded organisations and sent a postal questionnaire. These were followed up by an e-mail reminder.
- Specific Asian women's organisations were also targeted and either sent a postal or e-mail questionnaire. This was then followed up by telephone contact.

The questionnaires were sent to a broad range of organisations, many of which might not be working with this client group. However, it was important to cast the net as widely as possible in order to

contact those groups or individuals who were and whose contributions might have been missed by previous research. This inevitably made the initial response rate poor, but this was not an issue for the research as the purpose of the questionnaire was to identify particular services rather than provide a systematic review of provision. Initial analysis showed a poor return from specific areas and from certain organisations. In order to improve the return rate, organisations were selected from areas with poor returns; London, Wales and Yorkshire & Humberside. These organisations were contacted and completed the questionnaire by telephone. Several interviews were also carried out with targeted organisations in the North West. These supplementary interviews gave a final return rate of 16.3%. Many of those who did not want to take part in the research nevertheless gave valuable feedback which has contributed to the report.

The scoping exercise generated a viable list of contacts for the consultation. We identified over thirty organisations that were working with Pakistani women asylum seekers and an additional twenty who had no contact but were interested in talking part in the research. The aim of the scoping exercise was also to enable us to develop a database of contacts for organisations and individuals who were working in this area. These contacts could be used for later networking and for the dissemination of the results of the research.

1.6.2 Selecting the sample for the research

In the research plan we had also identified several key areas where we wanted to carry out the research – the North West, the Midlands, London and Wales. These areas did not include all the areas targeted in the scoping exercise as described in paragraph above. The North West, the Midlands and London were selected because they had large Asian populations and high levels of asylum seeking populations. The high numbers of returns from these areas in the scoping exercise confirmed our initial selection. Wales was additionally chosen as an area where there were low percentages of ethnic minority populations, and where dispersal was a relatively recent phenomenon. The return rates for Wales in the scoping exercise reflected these low numbers, and we were concerned to explore how services were delivering in an area where the Asian population was low, and expertise around asylum and immigration less available.

Table 3 Participants in the UK research – Phase Two Field Work October 2006 – April 2007

	North West	Midlands	London	Wales	Totals across the UK
Home Office	-	-	1 (and one written response)	-	2
NASS officials	-	-	1	-	1
Lawyers / Barristers	3	1	2	-	6
Refuge / Domestic violence services	3	1	2	1	7
Refugee Organisations	1	1	2	1	5
Police	1	-	-	-	1
Legal Support	2	-	1	-	3
Other key Informants	-	-	1	1	2
Number in each area	10	3	11	3	27 Individual interviews with service providers
Women asylum seekers	-	6	1	1	8 Individual interviews with women asylum seekers

From the scoping exercise we identified thirty-six organisations from these four areas which had worked on cases of this kind and were prepared to take further part in the research. We also identified several organisations which would be key informants such as the Home Office, NASS and the police, who had not been included in the original scoping. Participants were then selected according to one or more of the following criteria –

- Experience of working with a woman who was fleeing violence and had insecure immigration or asylum status
- Service delivery in one of the four key areas.
- Experience of policy work around asylum and domestic violence.

Semi-structured face-to-face interviews were carried out with these respondents. The interviews focused on three broad topics: the issues that workers faced in dealing with such cases and the systems and methods that were used to assess cases; the culture and situation in Pakistan; and the perceived difficulties of return and the issues for the women themselves in such cases. Appropriate schedules were devised for the different participants and the final balance of interviews and spread across the regions is represented in Table 3.

A total of 28 organisations and individuals were interviewed across the areas, representing feedback from a wide range of organisations including refuges, legal representatives, asylum and refugee organisations and the Home Office. One face-to-face interview was completed with the Home Office, but other participants there consented to a joint written response. This response has been included in the analysis. In carrying out the field work with service providers we also identified a sample of Pakistani women who were claiming asylum on the grounds of domestic violence. The women were drawn from a range of regions and the breakdown of the sample is detailed in Table 3.

1.7 Individual case studies

This study was precipitated by the work of South Manchester Law Centre where specific cases had informed early discussion and shaped the research questions. Four of these UK cases were selected to give a sense within the report of the circumstances which have led to women and their children seeking refugee protection in the UK and how these cases fared within the asylum process. In particular, the UK cases illustrate the kinds of considerations that appeared to be taken into account in arriving at asylum determinations, and the logic or lack of logic, of those decisions.

The case studies from Pakistan were formulated from research interview records as part of the research aim to document a woman's account of seeking safety from domestic violence, including attention to the sources of support she did and did not seek out, and the kinds of responses she encountered.

Beyond this, both sets of cases figure within the report as a vivid record of the impacts and meanings of familial or domestic violence and its implications for a particular woman's current situation. Apart from the obvious difference of national location, the two sets of cases are asymmetrical in the sense that the UK cases were generated as ongoing legal cases while the Pakistan cases are generated from research interviews (which are of course different from legally-focused asylum interviews). Nevertheless they both convey, and work as a powerful reminder of, the position of a particular Pakistani woman. The specificity of a woman's position, and her account of her experiences, can often be lost within a wider thematic analysis of the kind we have undertaken in this study (see Shacklock and Thorp, 2005; Beverley, 2000). We therefore frame our substantive Chapters with these longer narrative accounts. This attention to narrative chronology not only exposes specific issues that emerge as relevant in particular cases, but it also works as a useful corrective to the cross-sectional analysis undertaken as the primary mode of presentation of the material (i.e. juxtaposing the accounts of different participants) and brings back into focus the perspective of the women around whose circumstances and provision this study was formulated to investigate.

1.8 Group interviews / discussions

The group interviews were conducted in part to give additional depth to the individual interviews and provide opportunity for discussion in a group setting (Fontana and Frey 2003). Group interviews are particularly useful for exploring people's knowledge and experiences and were used to generate wider

comments on the participants' views of the research questions (Kitzinger 1995). Group discussion of this kind is typically more wide ranging and generative than one to one interviews, as participants associate with, and develop, each others' responses. They are useful to check out emerging interpretations, counter sampling biases (of those individuals willing to be interviewed) generate a wider pool of participants and highlight areas of consensus and debate amongst the participants' accounts. In this sense the group interviews were used both as an exploratory and phenomenological tool (Sinagub, Shay Schumm et al. 1996). The use of groups in a natural field, allowing freedom for group members to develop the discussion, enabled the researchers to make juxtapositions with material from the interviews with service providers and women victims/survivors and ensure coherence and systematic evaluation for the thematic analysis. Moreover, by enabling group participants to develop the discussion, the process also enabled women to safely withdraw from certain stages in the discussion, for example, when the focus turned to more personal elements of women's accounts of violence. Indeed, in one group discussion which was originally composed of thirty women, approximately half the participants decided to not participate once the discussion turned to individual women's accounts. A topic guide was devised which explored similar broad themes to those of the individual interviews (see Appendix One).

In Pakistan seven group interviews / discussions were held. Two were facilitated by NGOs in Lahore in which the participants were women from a Christian shelter, women from the community and local workers. The third was held with NGOs working in Hyderabad and Interior Sindh areas. Three were held at shelters in Lahore and Karachi where the participants were residents and ex-residents at the shelters. The final group was facilitated by Kwendor Kor (an NGO) with the researcher, where the participants were a group of local women in Peshawar.

A group interview was also carried out in the UK in the North West. The group was enthusiastic and the discussion engaged, therefore, it was extended to take place over two sessions a week apart and was hosted by an organisation providing support to asylum seekers. Women who attended the group were Pakistani women asylum seekers and victims of domestic violence and two students on placement at the project also attended.

1.9 Analysis

The aim of the research was to elicit a rich corpus of material which could reflect the asylum journey of a woman fleeing domestic violence in Pakistan. At the beginning of the project the experience of the research team had informed the structure and focus of the research, and initial research questions were identified at an early stage. Since the schedules had been constructed chronologically, using the research questions as a starting point across all the participants and both countries, it was decided that the research material would be analysed systematically using a thematic approach. Burman (1998) defines a 'thematic analysis' as –

'A coherent way of organising or reading some interview material in relation to specific research questions. These readings are organised under thematic headings in ways that attempted to do justice both to the elements of the research question and to the preoccupations of the interviewees.' (p.49)

Using a thematic analysis presents a range of challenges. Whilst a distinction is often made between *either* generating themes purely from the material itself or from pre-determined research questions (Braun and Clarke 2006), it was important in the context of this study that the analysis was a balanced representation of the research questions (and the topics and issues these covered) and other relevant issues raised by the participants during the fieldwork. The research team were concerned to ensure that the analysis answered the questions raised by case work, but also paid attention to convergence and divergence across the research themes and highlighted diversity and variation in responses as well as commonality.

In terms of paying sufficient attention to each specific context, the material from each national context was analysed separately and then juxtaposed with the other, to highlight commonalities and divergences. In order to address both of these needs the analysis began at an early stage in the field work. In the first phase, whilst carrying out the field work, the researchers regularly reviewed their interview tapes and notes in order to familiarise themselves with and consolidate the material. This process involved forming initial ideas as to the emerging themes, those that both addressed the

research questions and presented new issues. The field workers wrote regular reports, drawing on their interviews and field notes, which were discussed with the research supervisors in Pakistan and the UK and developed during the course of the work. This process was ongoing and lasted until the completion of all fieldwork in late 2006, by which point a provisional collection of themes and sub-themes had been identified for each corpus of material.

After the completion of the field work each of the researchers worked with the supervisory team to analyse the material. This corpus of material was reviewed and relevant features or issues were coded systematically and collated into themes (see also Parker, 2005). These themes were compared against those which had been identified during the field work and were reviewed and refined through discussion within the team. This was an iterative process, including successive consultations and discussions, with an attention to convergent and divergent perspectives and to minor as well as major themes. This was considered by the team to be especially important as the earlier case work had indicated a need to pay due attention to the diversity of issues within cases, as well as the commonality of issues. Despite this concern to identify and document specificity great consensus across the participant accounts emerged as to the key issues and the dominant themes within the research area. A wide range of participants, with diverse perspectives and positions, echoed very similar views and identified similar issues. The Home Office response differed from those of the rest of the UK participants and these differences are discussed in subsequent Chapters.

1.10 Structure of the report

The structure of the report mirrors the design of the research in that it follows, chronologically, the journey of a Pakistani woman who seeks asylum in the UK on the grounds of domestic violence. The research in the UK and Pakistan is presented in separate Chapters of the report in order to provide the reader with ease of access to the information. However the continuity of the women's journeys, and the integrity of their accounts, is retained through the insertion of specific and detailed case studies between individual Chapters. These case studies highlight the need to retain a consciousness of the individuality and specificity of each woman's history.

The background and context to the research is detailed in Chapters two to four. Chapter two gives an overview of the international context, highlighting the situation of women globally and current international law as it affects women asylum seekers. This Chapter also describes the ethos of the research project and contextualises the way in which the research was approached and carried out. Chapter three provides additional legal and contextual information, but focuses on the UK context, providing an overview of UK laws governing domestic violence and asylum and the impact on women victims/survivors. Chapter four gives an overview of Pakistani government and legal structures and the law as it impacts on women seeking protection from violence in Pakistan.

Chapters five to seven report on the research and feedback from participants in Pakistan. Chapter five examines the situation of women in relation to domestic violence in Pakistan, what protection is available to them, how the law is used in domestic violence cases and the response of the police and judicial agencies. Chapter six examines the status of service provision in Pakistan, looking specifically at access to shelters and exploring the nature and limitations of provision. Chapter seven tracks the journey of a woman who is forced to flee violence and explores broader issues which influence the choices available to her, such as class, ethnicity, customary practices and the notion of 'honour'. The Chapter also describes governmental responses to the issue of domestic violence and response of women's groups and human rights groups within Pakistan.

Chapters eight to ten report on the research which was carried out in the UK context. Chapter eight explores perceptions of Pakistan from the UK context and examines the UK based respondents understanding of domestic violence as it affects Pakistani women and the extent and limitations to women's choices in fleeing violence in that context. Chapter nine echoes the content of Chapter six in that it examines the status of service provision for Pakistani women fleeing domestic violence in the UK, but it also goes further in exploring the issues that are perceived to have an impact on the assessment and outcome of asylum cases in the UK. Chapter ten describes the impact of the asylum system of women and children and the effects of the journey on their physical and mental health.

In Chapter eleven we summarise the information and develop some of the themes which have been highlighted in the research.

Chapter two:

Contextualising the project

This Chapter summarises the background to the WASP Research Project. It describes the study's aims and objectives and provides a rationale for why it focuses specifically on Pakistani women⁸. It examines current discourse on the status and treatment of women and relevant global issues which have contributed to this discourse. This includes the impact of 9/11 and 7/7 on perceptions specifically of Pakistani women. It provides an overview of the international legal instruments which have contributed to a global awareness of domestic violence, and which have placed discussion of the issue within the framework of protecting women's human rights.

In addition, the Chapter draws attention to the challenges of undertaking a study of a distinct group of people. Such a focus in itself risks fixing Pakistani women's identities and their experiences as to perpetuate negative constructions of them. Instead, the study draws from current discourse on these themes to site Pakistani women's experiences of domestic violence in appropriate contexts of structural, political and cultural mechanisms, reinforcing the need to address women's experiences within the framework of women's human rights. Finally this Chapter explains how the study was formulated to investigate these sensitive issues, including the values and beliefs, which have informed the research.

2.1 Background to the project and South Manchester Law Centre

The study was funded by a grant from the UK Big Lottery Fund⁹. It was based at South Manchester Law Centre and was conducted in partnership with Manchester Metropolitan University (MMU). The study commenced in July 2005, culminating in a national conference on the 7th of December 2007 to launch the project report and a series of dissemination events in the UK and Pakistan.

South Manchester Law Centre (SMLC) is an independent not-for-profit legal advice centre. SMLC has gained specialist knowledge and experience over 30 years in offering legal representation and community support to people seeking asylum in the UK. It is located within the heart of the Pakistani community in Manchester, and works in partnership with local communities, with particular attention to Pakistani women. This has enabled it to develop an in-depth understanding of the complexity of factors shaping Pakistani women's experiences. SMLC is therefore in a prime position to highlight many of the difficulties faced by Pakistani women when trying to claim asylum and access other forms of support in the UK. It is also positioned to undertake further exploration of the barriers Pakistani women face when attempting to access justice.

2.2 Aims and Objectives of the Project

The study's primary aim was to generate knowledge and understanding of the complexity of factors that affect Pakistani women's experiences of domestic violence and their attempts to gain safety and access to justice. Central to this was the task of generating a detailed picture of the processes, options and rights of women at each stage of a journey from fleeing Pakistan, seeking asylum in the UK and on involuntary return to Pakistan.

⁸ Any reference to 'Pakistani women' is to 'Pakistani women who have experienced domestic violence in Pakistan' unless otherwise stated.

⁹ The UK Big Lottery Fund distributes money generated by the UK's national lottery in the form of grants.

In order to achieve this, our objectives were to:

- Examine the position of Pakistani women asylum seekers under the 1951 Convention Relating to the Status of Refugees (and the 1967 Protocol), European Convention on Human Rights and the Refugee Qualification Directive.
- Identify and explore the intersection of complex barriers faced by Pakistani women when attempting to escape domestic violence in Pakistan and on arrival in the UK.
- Conduct interviews in the UK and in Pakistan with diverse participants, including Pakistani women, legal practitioners, women's service providers, international and national non-governmental organisations, the police, and the Home Office, to identify key issues which impact on decision making on asylum claims.
- Examine a sample of UK and Pakistan based case studies to explore relevant issues arising from these, with particular reference to the viability of 'internal relocation'.
- Identify the range and effectiveness of service provision for Pakistani women asylum seekers both within the UK and in Pakistan.
- Identify the unmet needs of Pakistani women seeking asylum in the UK regarding service provision and access to justice.
- Identify responses required to address shortfalls in the asylum assessment process and in related service provision in the UK.

2.3 Why Pakistani women?

Globally, there is considerable commonality in women's experiences of domestic violence and its link to structural oppression, the key features of which are discussed below. Moreover, discourse on maintaining a global perspective on women's experiences of gender relations provides a platform for reiterating these commonalities (Mojab, 1998, p.19). However, women's experiences in particular cultural and political contexts raise very specific concerns. In addition, 'country-specific' violence, such as honour-related violence, or female genital mutilation is perceived to significantly affect particular women.

South Asian women are often seen to be victims of a static patriarchal culture, a perception usually perpetuated by the media as well as service providers. The perception of women as 'victims' is often regarded, at least at the level of international development work, as a sufficient basis for intervention and advocacy to improve South Asian women's status (Visweswaran, 2004). Intervention in South Asian women's *asylum* cases however is more complex and one which historically has paid little heed to any form of discourse on patriarchies, structural forces and oppressive practices, whether feminist or otherwise. Whilst patriarchal cultural practices do enhance the racialised pathologisation of South Asian women, an understanding of the intersection between culture and political systems in South Asia would enable a more effective consideration of gender based asylum claims emanating from South Asian countries (Visweswaran, 2004). This is particularly so in women's asylum cases which allege domestic violence (Chantler, 2007). How, then, might this identify Pakistani women as a 'special' cause for concern?

With particular reference to Pakistani women's domestic violence claims, it is necessary to consider the conflation of notions of morality, sexuality, nation and religion with law in Pakistan (Khan, 2003), as this creates the structural conditions in which domestic violence takes place and is accepted. Khan's emphasis on the need to move away from traditional 'culturalist' explanations for domestic violence and instead to stress the role this conflation plays in subjugating Pakistani women has particular relevance for this study. This point is amplified by an examination of how the Zina Ordinances in Pakistan came into being is discussed in further detail in Chapter four. Khan's thesis, that General Zia's military regime promulgated the Ordinances as a component of the new moral order in Pakistan in 1979, essentially to bolster its own political base through alliances with right wing religious parties (Khan, 2003, p.89), is particularly significant in demonstrating the state's role in regulating women's morality.

This analysis has particular significance for Pakistani women. Their unique status, attributable to cultural, societal and state level discrimination and abuse, is endorsed in the landmark asylum case 'Shah and Islam'. The case developed the definition of 'Membership of a Particular Social Group' and

its applicability to Pakistani women in accordance with the terms and spirit of the Refugee Convention (see Chapter three). The significance and specificity of 'Shah and Islam' itself in relation to Pakistani women justifiably warrants further examination of the situation for women in Pakistan in the period since this ruling.

Furthermore, initial analysis of SMLC's casework involving Pakistani women draws attention to the specific nature of the discrimination Pakistani women experience and of the Pakistani state's continuing role and interference in maintaining legislative and other structures by which Pakistani women are denied basic rights. This demands more in-depth engagement with and enquiry of the issues.

In a similar way, the process by which the government, structural violence and familial abuse coincide in the UK, with particular reference to women from minority groups, has been examined in other studies (Batsleer et al, 2002, Burman et al, 2005). Such work helps to illustrate further the particular vulnerability of Pakistani women caught in the system of asylum and immigration controls. These recent studies have examined the nature and scope of service provision in the UK for women from minority groups who seek domestic violence service support. Reinforced by the current climate of increasing scrutiny of Pakistan, its citizens, and Muslims generally and which may be contributing to Muslim women's increasing withdrawal from requesting mainstream service provision (Batsleer, 2002), the studies usefully provide a context for the particular hurdles Pakistani women are facing.

Representational challenges and the dilemmas associated with examining a specific group of women in this way are a necessary consideration and are explored further in section 2.7 of this report.

2.4 Global context of violence against women

In this section we consider the broad, interlinked global perspectives on violence against women. These bring together disparate issues and discourses, such as the extent and severity of violence, its consequences, its impact on children and 'globalisation' as a backdrop to new forms of violence.

2.4.1 The pandemic nature of violence against women

"Worldwide, men's violence against women causes more deaths and disabilities among women aged 15-44 than cancer, malaria, traffic accidents or war" (Murray and Lopez 1996, p.94).

This quote continues to have resonance in 2007. Globally, there is growing recognition of the extent and severity of violence against women, as demonstrated by events such as the United Nations Fourth World Conference on Women held in Beijing in 1995 and subsequent United Nations (UN) initiatives which have attempted to incorporate an understanding of gender based violence into mainstream policy and development agendas.

Whilst violence against women has been understood as a reflection of women's generally subordinate status, (for example, by UNIFEM¹⁰), there is also a perception that women's increasing status and empowerment can also elicit further abuse from husbands and families as a form of resistance to this. The implication of this, certainly in UN discourse, is that violence against women has to be understood as linked to broader issues of national welfare and development, that is, 'what is good for the nation', as well as integrated into policies on 'what is good for women', namely education, employment and good health¹¹.

2.4.2 The Beijing declaration and platform for action: domestic violence and women's human rights

The 1995 Beijing Declaration and Platform for Action (PFA) raised at the Fourth World Conference on Women¹², formulated a consolidated global perspective on violence against women. It underlined the

¹⁰ UNIFEM is the United Nation's Development Fund for Women. It provides financial and technical assistance to programmes which foster women's empowerment and gender equality and advocates for women's issues at the United Nations.

¹¹ Division for the Advancement of Women, 'Review and Appraisal of the Beijing Declaration and Platform for Action and the outcome Document of the Third Special Session on the General Assembly', 2005 at <http://www.un.org/womenwatch/daw/Review/english/background.htm>

¹² UN Fourth World Conference on Women, Beijing – September 1995, Platform for Action strategic objective D.

fundamental connection between violence against women in a broad range of forms, and violations of women's human rights. As a result it enabled the problem of violence against women to be defined through women's experiences. Consequently, it offered a broad perspective on the global and structural nature of the problem, as opposed to framing women's experiences of violence within the gender-neutral paradigms of crime control and of 'victimology' (Radford and Stanko, 1996).

Whilst not legally binding, the PFA is nonetheless useful. Significantly, it developed a baseline for addressing violence in its many forms experienced by *refugee women*. Key passages of the PFA which place the issue within the framework of human rights and which provide a working definition of violence against women are highlighted below. Much of the definition draws from the 1993 UN Declaration on the Elimination of Violence against Women.

2.4.3 More recent international attention

In 2006 the General Assembly of the United Nations launched the Secretary-General's 'In-depth study on all forms of violence against women'¹³. This long overdue document endorses the arguments of many women's rights activists that "violence against women was not the result of random, individual acts of misconduct, but was deeply rooted in structural relationships of inequality between women and men"¹⁴ and recognised that the United Nations' leadership was critical in the global effort to combat violence against women.

2.4.4 Definition of domestic violence

Whilst there is ongoing debate and lack of agreement about defining the basic features of domestic violence (Gill, 2004), for the purposes of this study the PFA working definition is useful in identifying the forms of violence that take place within the domestic or private domain. It provides this study with an appropriate starting point, from which we can ascertain the diverse profiles of perpetrators, whether they are male spouses, family members, states or their agents.

The PFA provides its' working definition, the substance of which draws from the 1993 UN Declaration on the Elimination of Violence against Women as stated above. It is helpful for this study as it is explicit in its reference to migrant women, refugee women and the role of states in their endorsement of violence against women. It includes:

*"...any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."*¹⁵

A more detailed list includes:

*"...physical, sexual and psychological violence occurring in the family, including battering...dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. Other acts of violence against women include violation of the human rights of women in situations of armed conflict, in particular murder, systematic rape, sexual slavery and forced pregnancy. Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection"*¹⁶

The PFA also identifies particular groups of women, notably women of a particular socio-economic status who might constitute the most vulnerable and most at risk. These include:

¹³ United Nations General Assembly, In-depth study on all forms of violence against women, Report of the Secretary-General, 6 July 2006, A/61/122/Add.1.

¹⁴ United Nations General Assembly, In-depth study on all forms of violence against women, Report of the Secretary-General, 6 July 2006, A/61/122/Add.1, p.13.

¹⁵ UN Fourth World Conference on Women, Beijing – September 1995, Platform for Action, section 113

¹⁶ UN Fourth World Conference on Women. Ibid. section 113-114

*"...women belonging to minority groups, indigenous women, refugee women, women migrants, including women migrant workers, women in poverty living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women, displaced women, repatriated women, and women living in poverty..."*¹⁷

This approach, as suggested at the beginning of this section, enabled us to work with a developing definition to address women's experiences of domestic violence within a human rights framework.

2.4.5 Consequences of domestic violence

*"Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms..."*¹⁸

The report of the Secretary-General referred to above expands on the PFA's statement, and highlights at Section IV¹⁹ the impediments to women's rights to live as independent and free citizens, such as physical and mental ill-health resulting from violence, the impact on their ability to become educationally and economically active, and to participate in public life, whilst recognising the far-reaching consequences of violence against women for their children and society as a whole.

Whilst the human cost of violence is alarming, the report comments on the under-reporting of the cost to society of the intergenerational transmission of violence and of the resource implications for protecting and empowering victims/survivors of violence. Beyond this, the ways that fear of violence inhibits and limits women's lives, including their economic contribution to national development, is integral to the consideration of the consequences of violence (Khalid, 2007).

The links with physical and mental health of women have been documented, specifically the relationship between women's experiences of domestic violence and suicide or self-harm (Batsleer et al 2002, Chantler et al 2001) including an exploration of the ways in which suicide and self-harm among South Asian women have often been used to 'cover-up' the domestic violence underpinning these acts (Chantler et al, 2002). This has had serious consequences for the development of appropriate counselling and other support services and on women's capacity to seek such support.

2.4.6 Children

The study presented us with a range of scenarios of domestic violence in which it was necessary to consider whether the interests of women and children were the same or related. Some of these scenarios concerned women without children, women with children, children deemed to be women, and women who were treated as children. Whilst detailed examination of these inter-relations was not within the remit of the research, current discourse on the need to reconfigure relations between women and children in contexts where the impact of domestic violence presents contesting needs (Burman, 2007) enabled us to highlight several key issues.

This study primarily focuses on adult women, yet the research was in part prompted by forms of domestic violence which target underage girls, for example, child marriages. Globally, there are culturally distinct manifestations of the transition from girlhood to womanhood. Such treatment of female children is understood to be the result of structures which are embedded in cultural, socio-economic and political power relations and which are designed to subjugate females from a very early age (Schuler, 1992). Such structures are in effect reminders of the responsibilities of all states to protect children from violence irrespective of a child's proximity to adulthood, as enshrined in the United Nations Convention on the Rights of the Child²⁰. It is however necessary to bear in mind that the UK (and other UN member signatories to the Convention) have entered reservations to the Convention

¹⁷ UN Fourth World Conference on Women. Ibid. section 116.

¹⁸ UN Fourth World Conference on Women. Ibid. section 112.

¹⁹ Report of the Secretary-General, ibid. p.36.

²⁰ A treaty raised in record time and with the largest ever number of signatories made up of all but two countries, the USA and Somalia.

with regard to protecting their rights to legislate on immigration and asylum control, a fact which is confirmed in the UK's latest report to UN Committee on the Rights of the Child²¹.

Although this study made reference to children mainly in their capacity as dependents of women, it highlighted the complex interplay between domestic violence and women's action/inaction where children's needs also had to be considered, as well as differential state treatment on the basis of child protection, support provision for children and custody matters. Many of the interviews conducted for this study exposed the dilemmas women with children are commonly presented with, such as, whether they should stay in the familial environment because of the threat of harm to their children, or conversely, whether they should leave *because* of it (Chantler, 2006). The interviews also exposed how male spouses, fathers and families actively use children in order to control women. This is compounded by other structural factors, such as societal/cultural norms which maintain that children's interests are best served in a two parent (heterosexual) environment, irrespective of marital or familial 'difficulties' (Burman et al, 2004).

This interplay is further complicated by the needs and rights of children that exist separately rather than in isolation from, women in domestic violence situations. In addition, the presence of children has, as our interview material demonstrated in later Chapters, impacted on asylum decision-making, if not by the Home Office, then by immigration judges on appeal. The central challenge for both women's and children's rights advocates is to continue to find appropriate ways of connecting and addressing these linked issues, recognising the 'indivisible and interconnected character of rights' (Burman, 2007) whilst maintaining a clear vision of the particular needs of women and the particular needs of children. Case studies referred to in this study amplified these issues.

2.4.7 Globalisation and violence

A closer examination of the PFA definition of violence indicates that the Beijing Conference participants recognised to some degree that a consequence of globalisation would be an increase in women's migration, not their empowerment and that, contrary to popular views on the effects of globalisation, more sophisticated forms of violence are emerging. Much of this discourse is developed in the Secretary-General's 2006 report²².

Furthermore, as Walters²³ highlights in his analysis of the Home Office's 2002 White Paper 'Secure Borders, Safe Haven', globalisation 'means that issues previously considered "domestic" are now increasingly international'. Women's migration ensuing from violence is an issue which, in the context of globalisation and global responsibility²⁴, will continue to raise concerns about the provision and location of protection. It is important to note however that the common perception is that many migrating women seeking protection against violence still migrate within the boundaries of their nations in their endeavours to secure intra-country protection.

Since the Beijing PFA, UNIFEM²⁵ has been facilitating bi-annual review meetings at various locations, including South Asia, with a view to following up on the implementation of the Beijing PFA. Pakistan jointly hosted the review meeting in 2005 with the South Asia Regional Office of UNIFEM, the tenth anniversary of the Beijing PFA. Hosting such an event is indicative of a nation's compliance with a UN driven agenda, and initiatives such as these have enabled nations to discuss and strategise, and allowed UNIFEM to continue their attempts at mainstreaming the United Nations global perspective on violence against women. However clearly what matters is action on the ground. It is worth noting that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) has an equivalent remit with regard to the implementation of the Convention on the Elimination of

²¹ See paragraph 5 of the report, 'The Consolidated 3rd and 4th Periodic Report to UN Committee on the Rights of the Child', UK Government, July 2007 at: <http://www.unicef.org.uk/aboutus/uncrcukrpt.pdf>

²² See fn 13

²³ Secure Borders, Safe Haven, Domopolitics, William Walters, Citizenship Studies, Vol. 8, No. 3, September 2004, pp.237-260

²⁴ see 'Enhancing Women's Participation in Development through an Enabling Environment for Achieving Gender Equality and the Advancement of Women', Report of the Expert Group Meeting, Bangkok, Thailand, 8-11 November 2005, Division for the Advancement of Women, page 8

²⁵ UNIFEM is the United Nation's development fund for women. It provides financial and technical assistance to programmes which foster women's empowerment and gender equality and advocates for women's issues at the United Nations.

All Forms of Discrimination against Women (see the section on the 'International Legal Context') and its response in 2005 to the report submitted by Pakistan raises many issues of serious concern in this regard²⁶.

2.4.8 Culture and country-specific issues

The UN has also attempted to highlight particular types of violence deemed to be 'culture' and country specific. In United Nations parlance, these are referred to as 'harmful traditional practices' and include threats of and actual dowry murders, early marriages, and, significantly in the context of Pakistan, crimes against women committed in the name of 'honour', the most extreme of which resulting in 'honour killings'. The 2005 CEDAW report is a consolidation of country-specific material on such practices. It examines a report submitted by the Pakistani government in 2004, which claims that between 1998 and 2003, 4,000 honour killings took place in Pakistan²⁷. UNIFEM's 2007²⁸ briefing on violence against women refers to the same data, however, it is difficult to assess the reliability of such figures.

In 1998 the Human Rights Commission of Pakistan (HRCP) identified 286 reports of honour killings of women in the Punjab alone²⁹. Amnesty International (Canada) reported in 1999 that, in relation to all forms of human rights violations against women, initiatives to improve awareness had led to more reports being filed. It is widely acknowledged that the vast numbers of cases are not reported and therefore go unrecorded³⁰. Thus key questions for this study included examining the ways in which the Pakistani authorities are collating material and addressing these harmful violent practices. Furthermore, the study grappled with the difficult question of the extent to which the Pakistani government is complicit in legitimising such practices through its Hudood Ordinances, such as the Zina laws³¹.

2.5 The impact of 9/11 and 7/7

The above global context is undoubtedly complicated by the events of 9/11 (the attack by 'Al-Qaida' on the World Trade Centre) and 7/7 (bombings in London carried out by British-born Islamic terrorists) and the ensuing 'war on terror'. Debate on asylum and immigration in the UK, which remains firmly at the top of the media's agenda, is now inextricable from anxieties about terrorism (Chantler, 2007).

2.5.1 Pakistan and Pakistanis under scrutiny

Pakistan and Pakistanis are more commonly portrayed in the public arena as objects of suspicion in the wake of the 'war on terror', and Pakistan's official religion, Islam, has become a target for considerable scrutiny. The argument that Pakistan has "systematically used religion to legitimise its existence" (Ali, 2000, p.41) appears to have specifically contributed to the subjection of the nation to enhanced international surveillance for terrorist exports, compounded further by its strategic links to Middle Eastern and central Asian countries.

2.5.2 Pakistani women: changing perceptions, new identities and increasing surveillance

A consequence of the current political landscape is the remodelling and monitoring of Pakistani women's identity. Within western discourse constructions of Pakistani women are often contradictory. Such discourse at times constructs Pakistani women as 'subjugated victims' of a male dominated

²⁶ Committee on the Elimination of Discrimination against Women: Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined initial, second and third periodic reports of State parties: Pakistan, 3 August 2005, CEDAW/C/Pak/1-3.

²⁷ Committee on the Elimination of Discrimination against Women. *ibid.*

²⁸ United Nations Development Fund for Women/UNIFEM Facts and Figures on Violence Against Women <http://www.unifem.org/14/8/07> which refers to para 529 of the combined initial, second and third reports of Pakistan submitted under Article 18 of the Convention on the Elimination of all Forms of Discrimination against Women.

²⁹ Report on Trend Analysis of Human Rights Violations 2005 and 2006, Human Rights Commission of Pakistan, <http://www.hrcp-web.org/report-trendAnalysis.cfm>. The Human Rights Commission of Pakistan is an independent, not-for-profit voluntary watchdog organisation, linked to the legal aid cell AGHS.

³⁰ Amnesty International, Canada News and Reports, Pakistan: Honour Killing of Girls and Women, 22/9/99.

³¹ See Chapter four, section 5.1 for a discussion of the Hudood Ordinances.

gendered culture which is seen to be steeped in tradition and religion, or they have been portrayed as symbolic 'markers' signifying sexual purity and holding the honour of their families and communities (Yuval-Davis, 1997). Yet, since 9/11 and 7/7 Pakistani women have been drawn into discourses around the 'war on terror' and are increasingly perceived as complicit in, or supportive of, a terrorism which is associated with 'Islamic fundamentalism'. This new construction of Islamic women is revealed in negative populist responses to the increase in women's uptake of Islamic headdress.

This development has reinvigorated the longstanding conflicts in the 'race relations' debate, and begs the question: is this response an empowering assertion of religious-cultural identity or a protest against escalating racism and ill treatment? Furthermore, whilst questions remain as to whether women are independently aligning themselves to a 'movement' by manifesting outward physical signs of identification and affiliation, or whether they are acquiescing to coercive religious elements to assume prescribed roles, this development has added to ongoing examination of Muslim women's ambivalent identity (Dwyer, 2003; Mojab, 1998), as Pakistanis and as asylum seekers. As later sections demonstrate, in particular the sections that analyse the interview material, this has raised concerns about the impact of these perceptions on the 'objectivity' of assessment of asylum claims.

2.5.3 Fear of racism and its impact on disclosure of violence

The 'war on terror' has also heightened public debates around Islamophobia and racism and caused concerns within Pakistani and other Muslim communities about the possibility of increasing racism and racist attacks. Invariably, these concerns are greatest for those who are perceived to be vulnerable in any community, for example, women and children. There is growing concern that these fears are a contributory factor in the decreasing levels of disclosure of domestic violence amongst Muslim women, including Pakistani women. For example, there is evidence to demonstrate that since 9/11 calls to domestic violence help lines in the North West of England from Muslim women have decreased dramatically (Batsleer, 2002, p.67).

Women's fear of disclosing violence may well be connected to their fears of exposing Muslim men to potential racist treatment. Their fears may also reflect their anxieties about drawing further attention, or recrimination, either to themselves or to their communities. Furthermore, their fears may be underpinned by anxieties and attitudes emanating from service providers in the current reactive climate. Whatever the reasons, there clearly is an urgent need for both UK Muslim community groups and service providers to refocus on domestic violence, and its effects, as the primary issue.

2.6 The international legal context

The section above has highlighted how global understanding of violence against women in all its forms, and awareness of violence against women as a human rights issue, are relatively recent and incomplete developments. However, key legal instruments place legal, political and/or moral obligations from a human rights perspective on the UK and Pakistan, as member states of the United Nations, to address issues impacting on women. These obligations, including the need to address violence, have, as outlined above, been circulating in international discourse for some considerable time. These instruments have been developed by the United Nations either very broadly in the context of defining and protecting human rights or specifically to address women's human rights. Collectively, they create a system of minimum international human rights standards.

The in-depth study of the Secretary-General of the United Nations identifies the essential international instruments of law, policy and practice on violence against women,³² which impact on all member states³³. Recent critiques of some of these instruments should be borne in mind; a notable example is the Convention on the Elimination of All Forms of Violence Against Women, criticised as "toothless", for its failure to adequately contextualise women's experiences of discrimination (Mayer, 2000).

It is useful at this point to identify the essential treaties and resolutions which place at the very least 'moral' obligations on each of these states to address domestic violence issues as human rights issues:

³² United Nations General Assembly, In-depth study on all forms of violence against women, Report of the Secretary-General, 6 July 2006, A/61/122/Add.1

³³ United Nations General Assembly, In-depth study on all forms of violence against women, Report of the Secretary-General, 6 July 2006, A/61/122/Add.1, p25.

- Universal Declaration of Human Rights (UDHR), 1948. Through the passage of time, the Declaration has been elevated to the status of 'customary international law' and is therefore deemed to be binding.
- Convention on the Political Rights of Women (CPRW), 1952. The Convention is the first instrument of international law that recognised, protected and promoted the political rights of women everywhere. Its purpose is to ensure equality between men and women in the enjoyment of the right to participate in public life.
- International Covenant on Civil and Political Rights (ICCPR), 1976. This instrument is now a cornerstone of international human rights law.
- Convention on the Elimination of All Forms of Discrimination against Women, (CEDAW) 1979. The first legally binding instrument prohibiting discrimination against women and placing obligations on member states to take appropriate steps to advance the equality of women. It places an obligation on member states to protect women from sexual and other forms of gender-based violence perpetrated by state agents and private actors. At the time of writing, Pakistan was reporting to 38th Session of the United Nation's Committee on the Elimination of Discrimination against Women (CEDAW – the Committee responsible for implementing the Convention), based on country information compiled and produced by the Pakistani government on 3rd August 2005.
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984. Whilst the ICCPR identifies torture as human rights issue, this instrument was created to more explicitly address the need to abolish torture and ill treatment worldwide.
- Declaration on the Elimination of Violence Against Women (DEVW), 1993. This was the UN's first attempt at providing a definition of gender-based violence and devising a framework for action. The Declaration is non-binding but it establishes an international standard.

A number of these instruments have contributed to the development of domestic violence issues in refugee law. This is discussed in more detail below. The Convention on the Rights of the Child, as already indicated above provides the framework for a global children's bill of rights.

2.7 WASP research project – values and beliefs

The importance of recognising the heterogeneity and individual characteristics of Pakistani women (and all women asylum seekers) cannot be overstated, and indeed, these were key substantive issues addressed within the design of this study. However, terms such as 'Pakistani women' and 'women asylum-seekers', and our focus on intra/trans-national trajectories raised a number of fundamental representational dilemmas, which demanded closer examination within the report.

2.7.1 Confronting and negotiating the dilemmas

The research team had to resolve several key dilemmas which were presented by the study. Firstly, the team needed to determine whether to portray Pakistani women as 'victims', 'survivors' or to try and convey a more complex experience of domestic violence as it was communicated in the individual life trajectories of the women who took part.

The research also had to address the problematic nature of particular 'monolithic' terminology such as 'culture'. The notion of culture is often used as a simplistic explanatory mechanism which can reinforce stereotypes and which fails to attend to difference in experience, and heterogeneity within communities. In addition, it was important that the study described the widespread nature of domestic violence in Pakistan whilst remaining aware of the trap of homogenising Pakistani women and their experiences. The challenge for the research was to avoid pathologising Pakistanis, and Pakistan itself, whilst attending to facets of customary practice and traditions which continue to subjugate women and undermine their rights. Furthermore, the research needed to attend to commonalities and differences across regional variations and cultures within Pakistan; and yet to keep in focus cross-cultural comparisons with UK practices which in themselves are often caught up in pathologised, racialised and racist depictions and distortions of Pakistan, Pakistanis and Pakistani women.

In addressing these dilemmas the researchers also needed to be continuously attentive to the trans-national nature of the study and to integrate awareness of these issues into the research design. By

way of a summary, *in the UK*, this study was principally concerned with examining the ways in which the Border and Immigration Agency (BIA)³⁴, the immigration judiciary and other relevant service providers address the legal, welfare and other support needs of Pakistani women as asylum seekers. This examination drew attention to the interplay between racialisation and racism as structural defects impacting on Pakistani women's access to safety against domestic violence. *In Pakistan*, the project's focus was to examine the nature and extent of domestic violence and of service provision to protect women across all sectors, and to document women's experiences of attempting to access such services including their attempts to relocate intra-country. It was this focus which drew our attention to the nature of gendered relations in Pakistan (Burman et al, 2006).

Furthermore, navigating the trajectory of Pakistani women's experiences, particularly when their journey culminated in negotiating the asylum system in the UK, is without doubt inextricable from historical and political tensions between the two nations. It is also inseparable from the UK's asylum system itself and its unsavoury historical associations with the exclusion of 'alien' people who were deemed to be undesirable (Cohen, 2006). Finally, the UK government's current domestic and overseas activities to curtail the movement of those people perceived, by virtue of their national origins, to have capabilities to 'terrorise' its citizens, appear now to intersect with all of these issues.

2.7.2 Pakistani women and the 'culturalist' trap

Narratives of Pakistani women's experiences run a risk of portraying them as victims, both of cultures and men, notions which "often serve to further stereotype third-world peoples..." (Khan, 2001, p.77). This view of Pakistani women is compounded by the tendency in the west to represent all south Asian women 'in ambivalent moral terms' (Mahalingham and Leu, 2005) for example as chaste, feminine, family-orientated, passive, obedient, and therefore inevitably oppressed. Furthermore, a study of this type was, in itself, in danger of fixing women's identities and their experiences within the particular single framework of domestic violence. The process of trying to formulate a robust legal position for Pakistani women's asylum claims does place considerable pressure on legal practitioners to engage with representations of women as abject, powerless and deserving of sympathy (Burman, 2007;Palmary,2006;Cohen, 2006) (representations which in themselves give legitimacy to the notions that 'compassion' or 'fairness' are, or can be, integral to immigration and asylum control), thus distorting and excluding the relevance of the bigger picture. At any rate, such culturalist homogenisations run the risk of compromising the 'case by case' and 'individual' treatment of specific cases (see Chapter three).

The need to shift from culturalist explanations of women's experiences and how their lives are shaped and instead to look at other global and local forces in operation becomes apparent (Khan, 2001). Many organisations in the UK working to promote the rights and welfare of minoritised women, such as Southall Black Sisters, have continuously campaigned to alter attitudes towards and understandings of domestic violence such as honour killings, to view these as crimes against women rather than as untouchable 'cultural practices'.

Gedalof (2007) extends these arguments as she unpicks current governmental and media discourse on the particular 'problem' that is the 'immigrant woman', defined "...by her entanglement in the 'backward practices' of arranged marriage and gender subordination" (Gedalof, 2007, p.90) which are clearly of direct application to perceptions of Pakistani women in the UK. This discourse is perceived to be a continuum of the gendered and ethnic coding which keeps 'immigrant women' firmly sited as symbols of unchanging cultural traditions and does nothing to identify them as individual citizens. Pakistani women, then, following this line of analysis, never cease to be victims, and their claims to particular experiences of victimisation perpetually remain obscured by these general perceptions. It becomes easier, then, to see how through this classification and stereotyping of Pakistani women the actuality and specificity of male and familial violence is lost.

2.7.3 Avoiding the culturalist trap: intersection of state, culture and violence

Being mindful of the need to maintain a critical perspective and to dig beneath traditional discourse on 'culture', a necessary consideration in shaping the design of the research was the role of specific

³⁴ Upon commencement of this study the Immigration and Nationality Directorate of the Home office had responsibility for immigration and asylum matters. These have now been taken over by the BIA.

socio-political factors, including the politics and actions of governments (the UK and Pakistan, for the purposes of our study) in creating the conditions which enable violence against women to take place (Burman, 2007, p.4).

In relation to state level activity in Pakistan, Chapters four - seven examine the extent to which the state's transparent intersection with other structural 'norms' has led to the development and use of laws to create moral and ethical codes of behaviour. For example, the report draws attention to the questionable relationship between Pakistani legislators, Islamic clerics, corrupt state institutions, and a state which is perceived to be morally bankrupt. What could be termed 'state and structural violence' becomes more alarming when it intersects, or colludes, with familial violence against women. The gender-specific nature of persecution of Pakistani women becomes much more apparent and potentially devastating.

Similarly in the UK, the threat of activating immigration legislation to remove a woman from the UK is often the only coercion needed to force a woman to remain living in violent circumstances (Chantler et al, 2006). This often arises, for example, when a woman on a spouse visa attempts to leave a violent marriage but the perpetrators threaten to report her to the Home Office for her violation of the conditions attached to her visa, namely the condition that she should remain living with her spouse. Whether or not the Home Office regularly acts on its powers derived from legislation to remove, its purposeful creation of laws which enable it to remove women in these circumstances, and its power to create the very structural conditions which threaten a woman's safety, highlight the nature of the UK state's collusion with familial violence and its role in the harassment and abuse of women.

2.7.4 A trans-national study

Although this study was not a comparative exercise, or cross-cultural evaluation, parallels at state level, as described in the preceding section, could not be overlooked. In a sense, the study concerned two fields of investigation, in the UK and Pakistan, but it focused on different but *linked* elements of systems and practices. The study maintained an equal, and equally critical, focus on both contexts and this even-handed scrutiny gave rise to some surprising, even alarming, 'visible' and 'invisible' parallels. Criticism of Pakistan can appear to reflect or feed a common view of the country as 'barbaric', yet the fact that similar themes (of for example, corruption and neglect on the part of state agencies and service providers) emerged as themes within the UK material gave pause for thought. In terms of the critical views of practices in Pakistan presented here, it should be noted that these challenges reflect current scholarly, political and practitioner-led debates and criticisms circulating as much, if not more, within Pakistan as outside it³⁵. Indeed a key contribution of this study can be regarded as having identified and synthesised these critiques alongside equivalent UK analyses.

2.7.5 Connecting trans-national audiences

The task of targeting audiences located within a diverse range of sectors in both Pakistan and the UK is a challenge for any trans-national study. While we hope this study will be read widely in both Pakistan and the UK it was not the aim of this study to structure the material by relevance to each country specific audience; on the contrary, the report deliberately aims to connect issues pertaining to domestic violence arising within Pakistan and across its regions, and to highlight the structural, political and cultural interconnectedness of practice between Pakistan and the UK. Furthermore, it draws attention to perceptions of the UK's asylum system in Pakistan, with particular reference to how the concept of 'asylum' itself, as a form of protection against domestic violence, was an unfamiliar concept to many women.

2.7.6 Connecting journeys women make to seek protection

Constructing these trans-national connections enabled us to make more visible some of the challenges and hardships Pakistani women are required to confront when in 'flight'. The study was designed to

³⁵ For example, for a recent State level critique of the position and treatment of women in Pakistan see 'Committee on the Elimination of Discrimination against Women: Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined initial, second and third periodic reports of State parties: Pakistan, 3 August 2005, CEDAW/C/Pak/1-3' for a recent State level critique of the position and treatment of women in Pakistan.

focus specifically on the point at which women embark on physical journeys within Pakistan in their attempts to seek intra-country safety, and, in some cases, towards the UK's asylum system. Indeed, in the latter case, the study was designed to intersect with women's experiences of entanglement with the asylum system and with wider service provision. These approaches to the study are described further in Chapter one.

2.7.7 Commonalities and differences across regions and cultures within Pakistan

As discussed in preceding paragraphs, attention to the cultural and regional diversity of Pakistan underpinned the research design and usefully acted as a constant check on over-homogenisation. The study was designed to attend to caste, tribal, class, economic, educational, faith and language related demographics to allow recognition of the heterogeneous nature of Pakistan and its citizens. At the same time, this approach enabled the project to draw out cultural and regional commonalities that have directly impacted on women's access to a safe environment. Again, Chapter one describes these approaches in further detail.

2.7.8 Racism and fear of racism

As discussed earlier in this Chapter other research has drawn attention to the ways in which women from minority groups who are subjected to domestic violence, are often made invisible or treated inappropriately by service providers in the UK in ways that are fundamentally racist as well as sexist (Batsleer et al, 2002). In the context of laying down the values and beliefs that have informed *this* study, it is worth drawing attention to a key connection. Whilst that research explored these issues in the context of informing policy and practice in domestic violence services, it highlighted concerns relating to the quality of service provision which mirror the underlying allegations of racism permeating the UK's asylum decision-making processes and systems. For a woman who might be considering protection from a violent family situation, her fear of racism from service providers and the immigration and asylum system, therefore, is more likely to limit her disclosure of violence and as already alluded to above, tie her to violent circumstances.

2.7.9 The audience for this report

The complex task of reaching a varied and diverse range of service providers both within the UK and within Pakistan is a significant challenge for any study. What may appear 'obvious' or known to one audience is likely to raise new or unknown themes and issues for another. This is particularly so when the audiences derive from different, and at times opposing, cultural frameworks, as is the case for this study. These themes are discussed further in Chapter one and highlight the somewhat 'fractured' nature of trans-national discourse on many of the themes in this study.

The Chapter which follows examines the legal position in the UK for Pakistani women as asylum seekers and highlights a number of key shortfalls within UK service provision which impact directly on Pakistani women. It thus provides a UK context to this study.

Fatima's case

Fatima was born in Afghanistan. Her father sold her to a man on the other side of the border in Pakistan when she was 4 years old. She has no recollection of this, but has been told by the man who bought her that this is what happened. She has no recollection of her family in Afghanistan. She cannot read or write.

The man who bought her is a rug manufacturer. She lived with this man and his family until she was 18 years old. She helped weave rugs and was the family servant. She did not receive any money, but they gave her food and a space on the floor to sleep. They mistreated her throughout the time she was with them.

They sold her to another rug manufacturer when she turned 18. He forced her to marry him. At the time she did not know he already had a wife and children. When he took her to his house he introduced her to his first wife as the new servant. His wife immediately took a dislike to her. She treated Fatima like the family slave. She was also forced to work in the family rug factory. On a number of occasions, she witnessed the man selling arms.

The man raped Fatima whenever his first wife was away from the house. His first wife only found out about his second marriage when Fatima became unwell and it emerged that she was pregnant. The first wife confronted her husband and he eventually told her. They agreed in the end that they would keep Fatima as their servant and sell the child when s/he was about four years old, an age considered to be 'marketable'. Throughout her pregnancy Fatima was ill-treated by the family.

She gave birth to a daughter. All members of the family physically abused her daughter. On one occasion she was badly burnt with a hot iron which has resulted in permanent scarring.

The man continued to rape Fatima, who eventually became pregnant again. She eventually gave birth to a boy. The family continued to ill-treat and torture her and her children.

She had befriended one woman in the rug factory. She spoke to her about her situation. The woman told her she knew a man who might be able to help her escape but he would need money or even jewellery in exchange. Fatima knew where the jewellery was kept in the house. She stole it and handed it over in exchange for help. The 'agent' arranged for her and her children to leave the country.

Fatima claimed asylum on arrival in the UK. The Home Office rejected her claim.

On appeal, the immigration judge held that she was a member of a particular social group but her appeal failed in all other respects. The judge held that she did have the option of seeking Pakistani state protection against the harm being inflicted on her and her daughter, and that, as a "relatively young woman", internal flight was a viable alternative for her.

Fatima lodged a fresh claim based on asylum and human rights issues with a detailed expert report. The Home Office did not consider or address any of the issues or evidence in her new asylum claim, because under this new 'administrative' system, the Home Office granted Fatima and her children indefinite leave to remain. This was not because of the domestic violence issues in her case or her need for protection, but because of the Home Office's delays in handling asylum cases, they had built up a backlog.

Chapter three:

The UK legal context

This chapter provides an overview of how refugee law³⁶ in the UK has developed to recognise domestic violence as a form of persecution. It summarises the relevant aspects of refugee law affecting Pakistani women and draws out the key principles, issues and case law which impact on their asylum cases. The chapter also identifies the ‘categories’ of Pakistani women who may consider asylum as their last option for seeking protection. It identifies particular difficulties with the decision-making process in Pakistani women’s asylum claims and also considers key difficulties for Pakistani women when trying to access broader service provision and support. The Chapter also summarises UK legislation on domestic violence, aspects of which may provide some practical solutions to Pakistani women who experience domestic violence whilst in the asylum system. In particular it describes criminal and civil remedies, and whether these remedies have effectively, or ineffectively created a body of ‘domestic violence law’. While focusing on case law in place in the period covered by the study, it concludes with an update on new or pending developments in law and practice in the UK that have a direct bearing on Pakistani women.

3.1 A note on the UK ‘status’ of Pakistan and on legal advice

It is important to highlight that Pakistan is a country listed by the BIA³⁷ as one of several countries giving rise to claims which should be decided quickly. In practice, this means that claims from any of the countries in the list may be considered suitable for procedures known as ‘Detained Fast Track’ and ‘Oakington processes’. At the time of writing, the current explanation of these ‘processes’ and indeed the list, are contained in a BIA guidance document known as an ‘Asylum Policy Instruction’ (API)³⁸ dated 28 July 2007. They characterise the arrangements that have been in place throughout the period of the study. As the API states, the guidance it contains –

*“...should not be taken as implying any departure from the fundamental principle that all asylum claims are looked at on a case-by-case basis and decided on their individual merits”.*³⁹

As is the case with any complex area of law, an asylum seeker should always be directed to accredited legal practitioners, for advice and assistance.

3.2 The 1951 convention relating to the status of refugees: the Refugee Convention

The 1951 Convention Relating to the Status of Refugees and its’ 1967 Protocol (‘the Refugee Convention’) make up the human rights instrument which provides the basis upon which refugees are given protection in the UK (See Hathaway, 1991). The Refugee Convention is a ‘living’ instrument which is required to be open to interpretation in order to meet the needs of those who require international protection at any given time. It must be read in conjunction with the UNHCR Handbook

³⁶ For an authoritative introduction to refugee law, see J C Hathaway (1991). *The Law of Refugee Status*, Toronto, Butterworth’s and GS Goodwin-Gill (1996). *The Refugee in International Law*. Oxford (Clarendon), 2nd edition.

³⁷ The Home Office’s Border and Immigration Agency has now assumed responsibility for asylum, immigration control and citizenship in the UK, functions which were previously carried out by the Immigration and Nationality Directorate. The BIA is also commonly referred to as ‘The Home Office’ in immigration and asylum matters. Similarly we have on occasion used these terms interchangeably

³⁸ The BIA’s Asylum Policy Instructions provide guidance on all aspects of the Government asylum policy.

³⁹ The BIA’s Asylum Policy Instructions. Ibid. p.1

on Procedures and Criteria for Determining Refugee Status to understand how it should be applied in practice⁴⁰.

3.3 European Union law

As a member state of the European Union (the EU), the UK also has obligations under EU law. Various EU directives have laid down standards for determining entitlement to protection for asylum-seekers. Below, we have highlighted two essential legal instruments emanating from the EU which, in addition to the Refugee Convention, also lay down the broad foundations for considering asylum claims and which bind the UK to comply.

3.4 European Convention on Human Rights

Since its incorporation into UK law through the Human Rights Act 1998, the Convention for the Protection of Human Rights and Fundamental Freedoms 1950, commonly referred to as the European Convention on Human Rights (ECHR) is now integral to the consideration of a person's asylum claim. Whether or not a person's human rights, in accordance with the terms of the ECHR, would be violated is considered alongside an asylum claim under the Refugee Convention. There are two particular rights which derive from the ECHR and which are commonly referred to in asylum cases and are therefore particularly significant in cases involving domestic violence issues. These are: the right not to be subjected to torture, inhuman and degrading treatment (Article 3) and the right to respect for family and private life (Article 8). In all asylum cases, the BIA is required to reach a decision about whether rejecting and returning a person to their country of origin will breach the UK's obligations under the ECHR.

This study did not aim to provide an examination of the specific articles of the ECHR. However, as the discussion on internal flight below demonstrates, it is important to note that the standards set by case law on the interpretation and application of the ECHR, are a constant feature of the asylum determination process.

3.5 Refugee Qualification Directive

In October 2006, that is, midway through the time period covered by this study, changes to the UK's legislation were introduced to incorporate further developments in EU law on determining asylum claims. These changes are based on 'Council Directive 2004/83/EC' (the 'Refugee Qualification Directive' – RQD)⁴¹. The RQD sets out in detail the criteria for granting asylum or humanitarian protection across Europe, as part of the European Commission's ongoing ambition of harmonising practice and procedure on asylum across Europe. All asylum claims, including those of Pakistani women, which raise a risk of human rights abuses in the applicant's country of origin⁴² will be determined in light of the RQD. The scope of the Directive includes the Refugee Convention; indeed, it explicitly refers to the Refugee Convention as the instrument which lays the foundations for the protection of refugees. The RQD effectively provides a further tool for interpreting the Refugee Convention. The Refugee Convention therefore remains the fundamental basis on which an asylum claim is made.

The above legal instruments, whether derived from UN or EU law, are reflected in a UK system of domestic legal regulations, the immigration rules and statutory instruments, which determine the law, practice and procedure for assessment of asylum claims.

3.6 Gender and the Refugee Convention

Historically, the UK authorities accepted a particular 'masculine' profile of a refugee, as a person who embodied certain characteristics. A refugee was an activist, for reasons connected to politics,

⁴⁰ Office of the United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the status of Refugees*, Geneva, (1979, Geneva, re-edited January 1992), (hereinafter "UNHCR Handbook"), para. 52. The UNHCR is the UN's refugee agency, and is mandated to lead and coordinate international action to protect refugees.

⁴¹ Incorporated into domestic law by the 'Refugee or Person in Need of International Protection (Qualification) Regulations 2006' (SI 2525/2006).

⁴² This excludes to an extent, 'private life' – a discussion of the limitations is beyond the ambit of this study.

religion or ethnicity. A refugee was usually perceived to be a single adult male, whose experiences of persecution were connected to his politics, his religion and/or his ethnicity⁴³. Women (and children) were traditionally perceived to be passive dependents of male refugees. The authorities can be perceived to have been complicit in reinforcing particular constructions of refugee women, by focusing on this profile in their decision-making and in their uncritical acceptance of the gendered nature of women's silent presence as dependents. This is demonstrated by the attitudes of the asylum authorities in relation to women's experiences of domestic violence, which they previously considered to be private family matters and therefore outside of their scope for consideration (Palmary, 2006).

Attitudes and practices have however progressed amongst decision makers, including in the field of asylum. Although, as a recent report published by Asylum Aid suggests (Ceneda & Palmer, 2006), and as the material gathered from our interviews indicates (see the Chapters three to five), progress remains slow.

The UNHCR's 2002 gender guidelines⁴⁴ provide an analysis of the nature of gender-related persecution and a useful interpretation of the refugee definition from a gender perspective. The guidelines define 'gender' as the –

*"...relationship between women and men based on socially or culturally constructed and defined identities, status, roles and responsibilities that are assigned to one sex or another"*⁴⁵

These guidelines draw from a wide range of discourses, feminist and otherwise, on gender and power relations. At the very least, they provide basic guidance on how a gender perspective, should encompass all decision-making (arguably in all decisions made on women's cases), and importantly, *all* Convention grounds. (See also the later section on 'Gender guidelines').

3.7 Applicability of the Refugee Convention in relation to women's experiences of human rights abuses

Asylum Aid's 2001 report on refugee women and domestic violence⁴⁶ suggests that the Refugee Convention has traditionally 'enabled' rather than prevented discrimination against women; this is quite a charge. The report demonstrates the way in which the emergence and development of international human rights instruments such as those listed above have in fact led to gradual linkages to be made between women's experiences of violence, of human rights abuses, and the Refugee Convention.

The 2001 report examined literature on the emergence of gender-specific characteristics of human rights instruments. It posits the argument that the non-discriminatory principles which underpin them have enabled women's perspectives and their experiences to be incorporated into interpretations of the Refugee Convention. Specifically, it states: *"the recognition that... gender-based human rights abuses, [such as domestic violence] even when perpetrated by individuals may actually amount to the persecution of women as members of a social group..."*⁴⁷

The gradual effect of placing women's experiences of human rights abuses in the context of international legal instruments on human rights has been threefold. Firstly, it allowed the possibility of further exploration of the connection between domestic violence and the meaning of 'persecution' within the terms of the Refugee Convention (see below). Secondly, it contributed to the development of the meaning of one of the Refugee Convention grounds, namely 'membership of a particular social group', examined in further detail below.

Thirdly, on a negative note, attempts to define the 'political' nature of women's experience or intolerance of violence as a 'political opinion' within Refugee Convention terms, have traditionally

⁴³ For a more comprehensive study on gender and its relationship with refugee law, see Thomas Spijkerboer, *Gender and Refugee Status*, Ashgate, 2000

⁴⁴ UNHCR Guidelines on International Protection: Gender-related persecution within the context of *Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the status of refugees*, 2002, HCR/GIP/02/01

⁴⁵ UNHCR Guidelines, *ibid.* para. 3

⁴⁶ *Refugee Women and Domestic Violence: Country Studies*. A report by Refugee Women's Resource Project, Asylum Aid, September 2001, p.13

⁴⁷ *Refugee Women and Domestic Violence*, *ibid.* p.14

been curtailed (Crawley, 2000). This may arise for example when a woman is raped as a punishment for a male family member's political activism⁴⁸, or when a person participates in an anti-violence demonstration in a protest directed at the state. This has led to situations where many practitioners and decision-makers, mould the gendered nature of women's experiences into a particular (arguably narrow) formulation for interpreting the Convention ground of women's 'membership of a particular social group' – undermining the possibility that women's experiences may also amount to a formulation of persecution for other convention reasons.

In summary, these developments have led to a broader understanding of a number of specific forms of persecution that a woman may experience. In their 2007 report on 'Pathways to Justice', Rights of Women, a national not-for-profit organisation, summarised a woman's position with examples. They highlighted that the forms of persecution that a woman may experience and which might attract international protection under refugee law are: ⁴⁹

- Gender-specific persecution because of a woman's gender (for example, threat of or forced to undergo FGM)
- Gender-specific persecution for reasons unrelated to her gender (for example, rape because of her politics)
- Non-gender specific persecution for reasons relating to her gender (for example, physical violence because she is wearing a veil)

It is difficult to see how violence which is precipitated by the wearing of a gendered item of clothing such as the veil is not 'gender-specific'. However, given this gradual linkage between violence, women's human rights and persecution, it is relevant to consider how UK refugee law applies to Pakistani women specifically, who seek protection against 'gender-specific persecution' (domestic violence) 'for reasons related to their gender'. The summary below demonstrates the process by which Pakistani women are required to fulfil the provisions of UK refugee law.

3.8 Article 1A. (2) of the Refugee Convention

Article 1A. (2) provides the definition of a refugee, namely, a person who:

*"...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence is unable or, owing to such fear, unwilling to return to it."*⁵⁰

The five 'limbs' then of a refugee as recognised in law are as follows. A refugee is a person –

1. Who is outside the country in which they normally live.
2. Who must have a 'well-founded fear' of harm or ill-treatment.
3. The harm or ill-treatment they fear amounts to a form of 'persecution',
4. They have been subjected to such persecutory harm or ill-treatment for a 'convention reason' and
5. They are unable or unwilling to obtain protection against the persecution they fear

3.9 Credibility

As in the case of any person who is seeking asylum, a Pakistani woman would be required to lay down the facts of her particular case, and establish her credibility. She would be required to address each of the five elements above in order to fall within the definition of a refugee.

A woman's fear of harm or ill-treatment is considered both 'subjectively' and 'objectively'. Whilst 'subjectively', she offers her own opinion and feelings about her fear of harm or ill-treatment, it does

⁴⁸ See SSHDVK [2006] UKHL 46

⁴⁹ Pathways to Justice: BMER Women, Violence and the Law, Rights of Women, August 2007, p.87

⁵⁰ The 1951 Convention relating to the Status of Refugees and its 1967 Protocol, Article 1A.(2)

not necessarily follow that, in law, her fear is deemed to be 'well-founded'. The 'well-foundedness' of a claim forms the basis of the 'objective test'. 'Objective' evidence, and its interpretation, including an interpretation of its objectivity, is critical in the determination of her case.

3.10 What constitutes persecution?

Whilst there are particular characteristics of persecutory behaviour, which have been developed by case law, there is no exhaustive list of types of persecutory ill treatment. Instead, the decision-making bodies are required to take a human rights approach⁵¹ looking at all the circumstances of a particular case⁵² in order to determine whether or not a particular type of action or threat of action amounts to persecution. The UNHCR Handbook⁵³ reinforces the need for decision-makers to take into account, when objectively determining what amounts to persecution, the subjective (or personal) element of a person's fear of persecution. As stated above, awareness-raising of the relationship between women's personal experiences of domestic violence and persecution has been a gradual judicial process.

Two basic principles therefore underpin the meaning of persecution in refugee law. First, by its very nature and repetition, the act of persecution has to be sufficiently serious so that it amounts to a violation of the absolute human rights of a person as laid down in the ECHR (for example Article 3). If this cannot be demonstrated, then in the alternative, persecution may arise because of a series or accumulation of measures, which include a violation of an absolute human right (such as Article 3), and which affect a person in the same way as above because of the severity of their impact on that person.

Examples of types of persecutory treatment as they affect women include the following: all forms of violence, discriminatory laws, or discriminatory application of laws, disproportionate or discriminatory punishment or prosecution, and withholding or not enabling legal remedies to be used.

Later sections of the report explore in more depth how the decision-making bodies in the UK have dealt with Pakistani women's experiences of domestic violence and persecutory treatment as described above. These issues are amplified through case studies.

3.11 Persecution: who is responsible?

The Refugee Convention is silent on the matter of who can be a perpetrator of persecution or of fear of persecution. Asylum case law has determined that the 'perpetrator' of persecution can be the state, an agent of the state (for example the police, the military or the judiciary), or a 'non-state entity' (for example a spouse or family members). In the case of state level activity, persecution can be shown to have taken place if it can be proven that the ill-treatment was sufficiently serious in human rights terms (as explained above). In the case of familial or other non-state ill-treatment, a person would have to demonstrate that not only was the ill-treatment sufficiently serious, but also that the state was unable or unwilling to provide adequate protection.

Clearly much of the language of persecution is couched in vague or ambiguous terms, and has relied heavily on refugee case law to provide interpretation.

3.12 Risk on return and protection against risk: 'sufficiency' of protection

Furthermore, an assessment is required of *risk* to her if she is returned to Pakistan. The relevant standard for assessment of risk applied in a Pakistani woman's asylum case, as in all asylum cases in the UK, is 'a reasonable degree of likelihood' of events which are feared actually occurring⁵⁴.

Establishing that such a risk exists does not in itself secure recognition as a refugee; she would also have to address the availability of 'sufficient' protection against that risk. Protection is usually deemed to be provided by the state and its institutions, for example, by having an effective police force, or judiciary, which enables a person to effectively access help and justice. However, often in asylum cases, there are claims that the risk of persecution emanates directly from the state and/or its institutions.

⁵¹ Gashi [1997] INLR 97

⁵² Ravichandran (Sandralingham & Ravichandran v SSHD; Rajendrakumar v IAT & SSHD [1996] Imm AR 97

⁵³ The 'UNHCR Handbook', para. 52

⁵⁴ SSHD v Sivakumaran, Vaithalingham, Vilvarajah, Vathanan and Anr and Navaratham, UNHCR Intervening [1988] Imm AR147; [1988] 1 AC 958.

As indicated above, the Refugee Convention is not explicit about who can be a perpetrator of persecution or of fear of persecution. The Declaration on the Elimination of Violence against Women clearly identifies both the state and private persons as potential perpetrators (see above under 'International Legal Context'). Citing the UNHCR Handbook, it must be either the State of the individual's country of origin, or "*groups that the government either cannot or will not control*"⁵⁵. Case law has followed this guidance and determined that the perpetrator may be the state, an agent or agents of the state or some other entity not connected to the state. In the case of the latter 'non-state' perpetrator, a person would need to demonstrate that the state cannot or will not provide 'adequate protection'. In the case of a Pakistani woman then, such a perpetrator might be a family member or members, or indeed an entire family, whether natal, by marriage or both.

3.13 Internal relocation

Increasingly, the determination of refugee status is based on the concept of internal relocation⁵⁶. A person may be able to establish a well-founded fear of persecution for a Refugee Convention reason in a particular part of the country. However the decision makers may also be of the view that they can still return to their country safely albeit by relocating to a different part of it. In order for internal relocation to be inapplicable, a person must show that it would be 'unduly harsh'⁵⁷ to relocate (see below). The 'internal flight alternative' (IFA) is an international construct developed by different state practices and by asylum case law in each state. It is commonly relied on by the immigration authorities to mitigate against a claim of fear of persecution. In the context of Pakistani women's asylum claims in the UK, the principle hinges on the belief that women and their children can find safety by relocating to an area within Pakistan which is sufficiently distant from the area that they have fled, where they cannot be traced and where they can live safely.

It is important to identify the essential principles upon which this controversial development in refugee law hangs. The cases of Januzi,⁵⁸ the 'Darfur Judgement' and the latest judgement on 'undue hardship' are briefly outlined below. We have also drawn from the UNHCR guidelines on internal flight. However, where appropriate, we have interposed these with rulings from Januzi and other relevant case law where the latter has explicitly departed from or reasserted the guidelines. It is important also to note the relationship between internal flight and the European Convention on Human Rights (ECHR), particularly in relation to whether, by relocating, a person's fundamental human rights as laid down by the ECHR are, or will be undermined.

3.13.1 Internal relocation: the UNHCR's perspective

The emergence of inconsistent practices within and across jurisdictions led to a UNHCR response in 2003 in the publication of guidelines on internal flight⁵⁹. These supplement the UNHCR Handbook and are intended to provide 'interpretative guidance' on the issue. Interpretative guidelines are not binding but instructive for practitioners and decision makers when considering how to apply internal flight in practice. The UNHCR guidelines confirm that internal flight is not a 'stand alone' principle, nor is it an independent test in the determination of refugee status, but one that may arise as part of the process of determining refugee status. In the case of Januzi, the House of Lords approved the guidelines and their role in clarifying the meaning of internal flight.

The guidelines lay down a broad definition of the concept:

*"...internal flight ...refers to a specific area of the country where there is no risk of a well-founded fear of persecution and where, given the particular circumstances of the case, the individual could reasonably be expected to establish him/herself and live a normal life".*⁶⁰

⁵⁵ The 'UNHCR Handbook', para. 65

⁵⁶ Also known as internal flight. These terms are interchangeable for the purposes of this study. See Chapter 1 for further explanation of terminology used.

⁵⁷ R v SSHD & IAT ex parte Robinson [1997] Imm AR 568.

⁵⁸ Januzi v SSHD [2006] UKHL5, [2006] 2AC 426

⁵⁹ UNHCR, 'Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees', July 2003, HCR/GIP/03/04

⁶⁰ Guidelines, Ibid.p3

3.13.2 UNHCR guidelines on internal relocation

An assessment of this broad definition entails a stage by stage enquiry of its own. It is useful to extract from these guidelines the principled approach they have established which has enabled practitioners and decision-makers to consider claims within a particular legal framework. However, these are simply guidelines and as a result, this has led to diverging and conflicting views about how these should be interpreted and consequently inconsistent judgements in Pakistani women's asylum claims.

The guidelines pose a series of questions each one of which is addressed with an interpretative legal explanation⁶¹:

1. *"Is the area of relocation practically, safely and legally accessible to the individual?"*

Not if barriers to getting there are not reasonably surmountable. This may arise, for example, because of "banditry, harassment and exploitation". If a person has to pass through the original area of persecution in order to access the proposed area then relocation is not an alternative. Passage through airports may render access unsafe. Some people may need particular documentation, such as ID cards, which if they do not possess would render an area unsafe.

2. *"Is the agent of persecution the State?"*

The guidelines state that national authorities are presumed to act throughout the country, or exercise their authority countrywide which makes internal relocation not possible, unless the risk of persecution:

"...stems from an authority of the State whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country". (p. 4)

However, in Januzi, the House of Lords stated that there could be no such absolute rule and that the language of presumption was unhelpful. The Court reiterated that a decision-maker should consider all the facts of the particular case and come to a decision based on an analysis of those facts.

3. *"Is the agent of persecution a non-state agent?"*

Moreover, is he/she likely to pursue the claimant? The motivation of the persecutor, and his/her ability to trace the claimant in the new area, are the primary considerations. If this threat has been established, the next consideration is the State's ability and willingness to protect the claimant. The guidelines suggest that State protection must be provided by an organised and stable authority exercising full control over the territory and population and must be effective and durable:

"Laws and mechanisms for the claimant to obtain protection from the State may reflect the State's willingness but unless they are given effect in practice, they are not of themselves indicative of the availability of protection. Evidence of the State's inability or unwillingness to protect the claimant in the original persecution area will be relevant. It can be presumed that if the State is unable or unwilling to protect the individual in one part of the country it may be able or unwilling to extend protection in other areas. This may apply in particular cases of gender-related persecution". (p.4)

4. *"Would the claimant be exposed to a risk of being persecuted or other serious harm upon relocation?"*

The four guiding principles here are that (i) the reach of the agent of persecution is likely to extend to the place of relocation, (ii) the new area must be more than a 'safe haven', (iii) the claimant must not be exposed to a new risk of serious harm, including "a serious risk to life, safety, liberty or health, or one of serious discrimination" and (iv) relocation is not possible if the claimant may be compelled to go back to the original area of persecution, or indeed to another part of the country where persecution or other forms of serious harm may arise.

3.13.3 Internal relocation: reasonable and safe?

Judgement in a recent case reiterated that a necessary stage in the assessment process is a consideration of the 'reasonableness' of internal relocation, but not to the exclusion of whether it is

⁶¹ Guidelines, Ibid p.3 - 7

'safe', safe in the sense of "an absence of persecution"⁶². These tests are to be considered in equal measure, taking into account 'subjective' and 'objective' factors pertaining to an individual claimant (as with the Refugee Convention; see above). Furthermore, the scope of the assessment is expected to be 'over time', looking at whether the area provides a meaningful alternative in the future. Further issues arising out of this case, in particular, the 'undue harshness test' are highlighted below.

3.13.4 'Undue hardship' and 'meaningful protection'

The need to address 'reasonableness' against issues of 'safety' has predictably led to the emergence of new concepts in attempts by courts to clarify what 'reasonableness' means in the context of internal relocation, significantly those which allude to 'undue hardship' or 'meaningful protection'.⁶³ The following extract from the guidelines demonstrates the juxtaposition of objective standards based on those laid down by UN instruments, with the specific characteristics of individual claimants and illustrates more clearly the interpretive conflicts that arise:

"Can the claimant, in the context of the country concerned, lead a relatively normal life without facing undue hardship?" (p.6)

Relevant demographic factors to identify the person's personal circumstances should include their:

"...age, sex, health, disability, family situation and relationships, social and other vulnerabilities, ethnic, cultural and religious considerations, political and social links and compatibility, language abilities, educational, professional and work background and opportunities any past persecution and its psychological effects". (p.6)

The guidelines stress that the 'lack of ethnic or other cultural ties may result in isolation and even discrimination in communities where close ties of this kind are a feature of daily life' (p.6) and that cumulative effect of these would need to be addressed. They go on to assert that safety and security must be 'durable, not illusory and unpredictable' (p.6) and that consideration must be had for a person's basic human rights. These basic human rights must be so fundamental to that individual, that deprivation of those rights by having to relocate would be sufficiently harmful to the individual. The guidelines state that economic survival is relevant if, by relocating, a person:

"...won't be able to earn a living, or to access accommodation or where medical care cannot be provided or is clearly inadequate, the area may not be a reasonable alternative. It would be unreasonable to expect a person to relocate and face economic destitution or existence below at least an adequate level of subsistence" (p.6)or *"to live in conditions of severe hardship"* (p.6) such as slums or on the streets.

Furthermore, if access to land, resources and protection would be denied because a person does not belong to the dominant clan, tribe, ethnic, religious and/or cultural group, then they can't be expected to relocate.

3.13.5 Januzi and 'undue hardship'

The House of Lords in the case of Januzi established an approach to the interpretation of 'undue hardship'. This was based on a Court of Appeal decision called *AE & Others v SSHD*⁶⁴.

Their starting point was to dismiss what is known as the 'Hathaway/New Zealand' rule on how undue hardship should be interpreted. The Hathaway/New Zealand rule encompasses a broad consideration of international standards, and states that internal flight is only appropriate in cases where people can:

"...genuinely access domestic protection, and for whom the reality of protection is meaningful. In situations where, for example, financial, logistical, or other barriers prevent the claimant from reaching internal safety; where the quality of internal protection fails to meet basic norms of

⁶² HGMO (Relocation to Khartoum) Sudan CG [2006] UKIAT 00062, 3 August 2006. This has subsequently become the Darfur Judgement. See footnote 67.

⁶³ For a discussion of the reasonableness test, and the requirement that basic human rights should be provided and met in the relocation area see Reinhard Marx, *The Criteria of Applying the "Internal Flight Alternative" Test in National Refugee Status Determination Procedures*, International Journal of Refugee Law, 2002 14(2 and 3), pp 179-218.

⁶⁴ *AE & Others v SSHD* (2003) EWCA Civ 1032, [2004] QB 531

*civil, political, and socio-economic human rights; or where internal safety is otherwise illusory or unpredictable, state accountability for the harm is established and refugee status is appropriately recognized.”*⁶⁵

The House of Lords identified five particular points as to why this approach was inappropriate, stating that:

- (i) It did not derive in any way from any article in the Refugee Convention;
- (ii) It could not be implied into the Refugee Convention;
- (iii) Council Directive 2004/83/EC5 (the ‘RQD’, see above) which is binding on the UK did not make an express reference to that approach;
- (iv) There was no other academic viewpoint or any international approach which endorsed it and
- (v) It created anomalies in the way in which the Convention took effect.

To illustrate the last point, they used the example of a refugee from a poor and deprived country who could, with no fear of persecution, live elsewhere in his country of nationality, but once there, would suffer all the drawbacks of living in a poor and backward country. In their lordships view, if he did not fear persecution elsewhere in his country, then, once he had relocated, he was not entitled to seek protection against the deprivation he might encounter there⁶⁶.

In the AE case, the preferred approach, their lordships declared that the process of determining undue hardship was:

“...a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the safe haven, having regard to the impact that they will have on a person with the characteristics of the asylum seeker”. (para. 24)

Clearly the distinction between the two approaches is that in the latter case, there is a lesser obligation to address wider humanitarian issues and instead, to focus on the standard a person is ‘used to’ in their country and area of origin.

A second issue was clarified in Januzi. This concerned the role of the state as the feared agent of persecution.

Lord Bingham observed:

“The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in another place within the state” (para. 21)

3.13.6 Further case law developments on ‘undue hardship’: the darfur judgement

The Court of Appeal decided earlier this year in a case concerning three non-Arab Sudanese men⁶⁷ to clarify the Januzi position as follows. The decided that the test for establishing undue hardship should take the following approach:

- the starting point must be a consideration of the conditions in the asylum-seeker’s home area;
- those conditions must be compared with the conditions prevailing in the place to which they might relocate;
- the latter conditions, in the safe haven, must be assessed according to the impact that they will have on a person with the characteristics of that individual asylum-seeker;
- if under those conditions the asylum-seeker cannot live a relatively normal life according to the standards of his country it will be unduly harsh to expect her/him to go to the safe haven;

⁶⁵ AE & Others, Ibid. para. 24

⁶⁶ See the European Council on Refugee and Exiles (ECRE), UK Country Report for 2005, Refugee Council, August 2006 pp.12-13 for a summary of this summary.

⁶⁷ AH, IG & NM (Sudan), SSHD [2007]EWCA Civ 297

- traumatic changes of lifestyle for instance from a city to a desert or into slums conditions should not be forced on the asylum-seeker.

However, the latest judgement of the House of Lords provides a narrower interpretation. It declares that there is no requirement to have as a starting point, a consideration of conditions in the place of habitual residence, but that it is for the decision maker (the BIA) what weight is to be given to that, and all other relevant factors in the context of the particular facts of the case (see *SSHD v AH (Sudan) and others (FC)* [2007] UKHL 49).

3.13.7 Pakistani women and internal relocation

How then does this analysis of internal flight connect with Pakistani women? The chapters which follow illustrate how the internal flight alternative has particular significance for Pakistani women's well-being and future safety. However 'reasonable' the concept of an 'internal flight alternative' appears to be (relocation may indeed offer meaningful protection to some), the controversy surrounding it stems from the lack of uniform and principled application of it by decision-makers, and, specifically, the increasing use of it to deny Pakistani women asylum when they cannot produce 'enough' or 'appropriate' evidence to negate it.

3.14 Defining 'membership of a particular social group'

Section 3.7 touches on some of the characteristics of this complex Convention ground, which is the relevant Refugee Convention reason for the purposes of this study. There is no comprehensive, definitive definition of membership of a Particular Social Group (PSG). Instead, it is evolving through asylum caselaw and through the constant linkages being made by practitioners on the nature of discrimination and its relationship to persecution. These developments do not depart from the Refugee Convention. They are endeavours to ensure that there is proper interpretation of the 'spirit' of the Convention, which itself is concerned with protecting victims of persecution *because* of discrimination.

The UNHCR, in accordance with its mandate, issued 'Guidelines on International Protection'⁶⁸ to clarify the interpretative process of understanding what a PSG is; more recently, the Refugee Qualification Directive (RQD) attempted a definition which does not appear to depart from the current guidance, or at least does not undermine it⁶⁹. Certainly there is a pressing view amongst practitioners that the judiciary need to be mindful of avoiding too narrow an approach, in the light of a conflict-strewn world in which people with diverse characteristics and experiences seek protection and justice against discrimination in their countries of origin.

It is necessary to highlight that membership of a PSG must be able to exist outside of persecution, and that persecution of a PSG must be taking place to *discriminate*, consciously or unconsciously, against that group. However, reference is made below to the significance of this Convention ground for this study in the leading case law authority, *Shah and Islam*⁷⁰. Recent developments which elaborate on the defining features of what constitutes a PSG in relation to women's asylum claims are outlined below.

3.14.1. *Shah and Islam*

In 1999, the House of Lords made a critical finding in the case of '*Shah and Islam*' a case concerning two Pakistani women seeking refugee protection against the threat of violence in Pakistan. It held that 'women in Pakistan' comprised a PSG. Lord Steyn summarised the position of Pakistani women:

*"...the distinctive feature of this case is that in Pakistan women are unprotected by the state: discrimination against women in Pakistan is partly tolerated by the state and partly sanctioned by the state..."*⁷¹

⁶⁸ UNHCR 'Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A (2) of the 1951 Convention and/or its Protocol relating to the Status of Refugees, 2002, HCR/GIP/02/01

⁶⁹ Council Directive 2004/83/EC Article 10 (1) (d); incorporated into domestic regulations by the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 (SI 2525/2006) Article 6 (1)(d)

⁷⁰ *Islam v SSHD and R v IAT ex parte Shah*[1999] 2 AC 629 HL

⁷¹ *Shah and Islam*, *Ibid*, 644

The case formulated an approach to defining PSG which stressed a particular social pattern, namely the *discrimination* women in Pakistan face. It was accepted that Pakistani women's experiences were a culmination of the extent of discrimination they face at the hands of the Pakistani authorities and wider society there. They found that the way in which society is structured in Pakistan, the influence of customs, traditions and laws, and the history of women's experiences there amounted to women being seen as 'second class citizens', leaving them with inadequate or no recourse to justice.

Clearly each Pakistani woman's claim for asylum has to be considered on its own merits, and each woman would be required to demonstrate that the serious harm she has been subjected to or fears, combined with the discriminatory behaviour of the state which amounted to its failure to protect her, results in persecution. She would also as outlined above be required to address the viability of internal relocation. However, the decision in *Shah and Islam* laid down a precedent on this strand of the Refugee Convention for Pakistani women who feared returning to Pakistan because of domestic violence.

3.14.2. Refining the definition of PSG

Since *Shah and Islam*, a number of case law developments have contributed to formulating a series of principles which should govern how a PSG is identified. For this study, it is sufficient to summarise as follows: the members of a PSG would need to share a common immutable or innate characteristic (such as their gender or membership of a family). Alternatively, they would need to share a belief which they should not be expected to change because it is a belief which is fundamental to their identity (this might be because of their conscientious objection to war and therefore compulsory national service). Furthermore and in the alternative, the members of the group would need to 'stand out' from others in the society because they have a distinct identity.

3.14.3 Recent case law developments on membership of a particular social group

More recently, in two landmark cases which respectively examined the PSG characteristics concerning an Iranian woman and a teenage girl from Sierra Leone at risk of female genital mutilation (FGM), Lord Bingham reiterated that, in relation to PSG cases, the Refugee Convention:

*"...is concerned not with all cases of persecution, but with persecution based on discrimination..."*⁷²

Thus emphasising the causal link between discrimination and persecution.

In the case of the Iranian woman, she had been persecuted by the Iranian state because of her husband's political activities. The House of Lords unanimously found that this amounted to persecution for reasons of her membership of a social group; in her case the social group is defined as 'her husband's family'.

In the case of the teenage girl, she succeeded in her claim as a member of a different type of social group, namely 'women in Sierra Leone or women in Sierra Leone who had not been subjected to FGM'. Their lordships in her case agreed that all women in Sierra Leone were subjected to an extreme manifestation of discrimination, namely FGM.

3.15 Pakistani women and the circumstances in which they might seek asylum

There are essentially four 'categories' of Pakistani women relevant to this study who may seek asylum. These are exemplified in the case studies and are:

- Women who arrive at a UK port, without entry clearance and request protection. These women, as with any 'on entry' asylum seeker, are deemed to be 'illegal entrants'.
- Women, who have entered the UK with entry clearance as spouses of British Citizens, but who, either during or after the two-year probationary period of marriage, subsequently claim asylum due to marriage breakdown. These women may at some point be deemed to be illegal entrants if the authorities can show that they intended to claim asylum subsequent to entry.

⁷² *SSHD v K; Fornah v SSHD* [2006] UKHL 46 (18 October 2006), 13

- Women who have entered the UK with entry clearance in some other capacity, for example as domestic workers, students, or dependents of students, but who subsequently claim asylum. Again, these women may also be deemed to be illegal entrants.
- Women who accompany asylum-seeking spouses as dependents, who subsequently claim asylum in their own right because of domestic violence.

In each case following the terms of the Refugee Convention, the perpetrator(s) of the persecutory treatment which they are escaping from or which they fear, must be in Pakistan (although it may well be the case that agents of the perpetrator(s) may also be in the UK).

3.15.1 Other women: women abandoned in Pakistan

Some women find themselves in 'limbo', for example women who are Pakistani nationals who came into the UK with spouse visas and who are subsequently 'sent back' because of marriage breakdown. Throughout the course of the study, it has become clear that most of these women have experienced spousal and/or familial violence and are subject to the same cultural 'shame' and allegations of 'dishonour' as the women in each of the above 'categories'. The difference lies in their inability to lodge a claim for asylum should they wish to; it remains unclear how if at all a woman can lodge a claim at a British High Commission in Pakistan.

3.16 Applying for asylum

The 2007 handbook published by Rights of Women⁷³ provides a helpful women-specific summary of the steps a woman would need to take and the process she would be required to follow for her asylum claim to be assessed and determined by the BIA. It describes the New Asylum Model and the Case Resolution Programme which since 2007, provide the framework within which all asylum claims are assessed.

It is beyond the ambit of this study to describe the asylum process in detail⁷⁴. However, there are key stages which need to be emphasised. These are the screening and asylum interviews and the decision-making stage, during which a woman is expected to disclose all the evidence she intends to rely on. Furthermore, it is necessary to elaborate on the financial and accommodation needs a woman might have during her asylum claim. These are discussed below.

3.17 Asylum support: subsistence and housing

Until 2007, NASS (National Asylum Support Service) was responsible for providing accommodation and financial support to registered and eligible asylum seekers (and their dependents) whilst asylum claims were pending. The BIA is now responsible for overseeing these needs.

The BIA's current policy on providing support when an asylum seeker experiences domestic violence whilst an asylum claim is pending can be found in NASS Policy Bulletin 70 (January 2004). The BIA has, so far, retained the NASS acronym. The Policy Bulletin addresses circumstances when, because of domestic violence, an asylum seeker and/or dependents leave or wish to leave BIA accommodation. The policy statement is unambiguous insofar as it states at paragraph 4.2 'the accommodation provider must ensure that a victim and any children are transferred to alternative accommodation that is safe and secure', and that the offer of safe alternative accommodation should be offered immediately; if this cannot be BIA sponsored accommodation, then to 'refer the victim to a refuge or consult with the local authority about the action to take'. At the same time, the provider should inform the victim that the reasonable costs of alternative accommodation can be met by the BIA (paragraph 6.2). Our research demonstrated that inconsistent implementation of the BIA's policy by regional offices has led to great confusion amongst refuges and other women's service providers, and ultimately, considerable hardship for women (Dwyer et al, 2005).

⁷³ Rights of Women. Pathways to Justice, BMER Women, Violence and the Law, p.90-98

⁷⁴ The Refugee Council's information sheet 'Applying for asylum' dated May 2007 is a practical and accessible general guide to the process and can be accessed at: http://languages.refugeecouncil.org.uk/pdf/English/Applying_for_asylum-English.pdf

3.18 Decision-making in asylum cases – problems common to most asylum-seekers

Much of the research on decision-making in asylum cases focuses on difficulties experienced by asylum seekers, women and men, in proving their credibility and providing evidence to address each of the requirements under article 1A. (2) of the Refugee Convention. Studies undertaken since 1995 have exposed flawed decision making processes both within the Home Office and the courts and how unfair and arbitrary methods of decision-making were the norm (Asylum Aid, 1995, 1999). In their report 'Evidence of Torture' (2001) the Medical Foundation for the Care of Victims of Torture found that the immigration authorities generally ignore the client's evidence. Accounts of torture are downplayed, and inappropriate refusals are made on the basis of insufficient evidence. Formed in response to 'citizens' concerns, the Independent Asylum Commission⁷⁵ is, at the time of writing undertaking an extensive nationwide review of the asylum system. This will include the collection of testimonies and other evidence which criticise the 'culture of disbelief' that many argue permeates decision-making. The Commission's report is due in 2008. The next section involves further discussion of the ways in which doubts about credibility have impacted on women's asylum cases.

3.19 Specificity of women's experiences

In their 2003 report⁷⁶, Asylum Aid's Refugee Women's Resource Project (RWRP) concluded that '*...the Home Office fails to recognize the specificity of women's experiences as asylum seekers*⁷⁷ and *that the decision to refuse women asylum seekers protection under the 1951 Refugee Convention was often made on the basis of a gender-blind approach to their claim*'.⁷⁸

This is a contentious conclusion, given the discussion above in connection with the requirement to incorporate a gender perspective on women's human rights issues and, yet, one supported by credible evidence. In an extensive analysis of the reasons why women's asylum claims were rejected, the RWRP highlighted key areas of concern. These related to perceptions of women's credibility⁷⁹; the failure to regard the treatment of women including ill-treatment because of domestic violence, as persecutory treatment⁸⁰ and a view that such treatment did not fall within Convention grounds⁸¹. The report provides an informative analysis of the culturally masculine framework within which women's asylum cases have traditionally been assessed. Globally, whilst the nexus between domestic violence and women's human rights has in principle been established (see Chapter one), these research conclusions suggest that, in the UK, decision making authorities have been more cautious in their interpretation.

3.20 Decision-making in Pakistani women's asylum cases – particular problems

Of the cases analysed in the RWRP study, only two of the one hundred and two women were from Pakistan.

For this study, the research team have identified three key beliefs that the immigration authorities have expressed in their decisions concerning Pakistani women's asylum cases in which South Manchester Law Centre has provided advocacy since 2001:

1. the belief that the 'average' Pakistani asylum seeking woman is an economic migrant,
2. that even if her claim is found to be credible there are sufficient statutory and non-governmental (NGO) support services in Pakistan to enable women to seek help, and
3. that 'internal flight' is a viable option.

⁷⁵ See the Commission's website for further details: <http://www.independentasylumcommission.org.uk/>

⁷⁶ Refugee Women's Resource Project, Asylum Aid *Women asylum seekers in the UK: A gender perspective. Some facts and figures*, February 2003.

⁷⁷ Refugee Women's Resource Project, *Ibid* p.165

⁷⁸ Refugee Women's Resource Project *Ibid* p.166

⁷⁹ Refugee Women's Resource Project *Ibid*. p. 68-89

⁸⁰ Refugee Women's Resource Project *Ibid*. p. 95-102

⁸¹ Refugee Women's Resource Project *Ibid*. p. 104-115

Clearly, a wide range of factors have contributed to the development and reinforcement of these beliefs. Such beliefs were examined in a global context in Chapter two, and will be further explored in Chapters five to ten. An overview of this material demonstrates that there are clear and distinct issues which impact on decision-making in Pakistani women's asylum cases.

3.21 Gender guidelines: are they implemented?

In this section we summarise the chronology to the production of gender guidelines which provide a framework for considering women's asylum cases from a gender perspective. We also highlight the key findings of recent research on the effectiveness of the Home Office's guidelines.

As outlined above in the section 'Gender and the Refugee Convention', a gender perspective, where relevant, is now recognized as a necessary element in fair and balanced decision-making in women's asylum cases. Unsurprisingly, the drive to provide such a framework for decision-making has come from women legal practitioners; in 1998 the Refugee Women's Legal Group first produced gender guidelines for use by the authorities⁸². These were deemed necessary to address procedural and substantive issues in women's asylum cases and in recognition of their potential to raise awareness of the specificity of women asylum-seekers' experiences (Crawley, 2000). The Home Office did not implement them, arguing that gender issues were to be mainstreamed into general Asylum Policy Instructions for its caseworkers. It was only in 2000 when the Immigration Appellate Authority (the IAA), the body responsible for decision-making at appeals stage, produced its own Asylum Gender Guidelines⁸³, specifically for use in asylum cases but only limited to the appeals stage of a case, that is, after it had been refused by the Home Office. The Asylum and Immigration Tribunal is the body which now administers and hears all asylum appeals and has retained the 2000 guidelines to inform its process and decision-making.

In the previous section which looked at 'Gender and the Refugee Convention' we drew attention to the UNHCR's 2002 gender guidelines. As stated, they provide basic guidance on how a gender perspective should encompass all decision-making, and importantly, *all* Convention grounds.

The Home Office finally produced its own version of guidelines for asylum cases in 2004⁸⁴. However, Asylum Aid's 2006 report on the Home Office's guidelines (Ceneda & Palmer, 2006) provides a detailed critique of the way in which the Home Office has failed to effectively implement its own instructions on how to take into account the particular experiences of persecution women have faced. The report identified practical obstacles and cultural issues which were leading to women's claims being unfairly undermined. Whilst the report recognized that not all women asylum seekers would succeed in their asylum claims, it highlighted the need for the Home Office to pay due attention to its own guidelines to ensure that the process of determining women's claims remained fair.

3.22 Country reports

Reports which provide relevant information pertaining to countries vary in detail, quality, accuracy, analysis and reliability. Their purpose, though, is critical in asylum cases, as they provide commentary about conditions in asylum seekers' countries of origin for use by decision-makers. For the purposes of assessing asylum claims, these consist largely of those generated by the Home Office and by NGOs working in the field of human rights, such as Amnesty International.

The following is an extract from the Home Office's website which introduces the Country of Origin Information Service (COIS), the section of the Home Office responsible for producing country reports. It states that:

"COIS exists to provide accurate, objective, sourced and up-to-date information on asylum seekers' countries of origin, for use by IND officials involved in the asylum determination process"... They

⁸² RWLG Gender Guidelines for the Determination of Asylum Claims in the UK, July 1998 (website temporarily unavailable) (Also published as appendix 3 in: Crawley, Heaven (2001) *Refugees and Gender. Law and Process*, Jordans.

⁸³ Immigration Appellate Authority (IAA) (November 2000) Asylum Gender Guidelines

⁸⁴ Home Office (March 2004) Gender Issues in the Asylum Claim Asylum Policy Instruction (API) <http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/apis/genderissues>

*are compiled from reliable material produced by external information sources such as the US State Department, UNHCR, human rights organisations, and news media”.*⁸⁵

This is a view apparently not shared by others involved in asylum work. In 2003, in response to general criticisms of its' reports, and to meet its obligations under the Nationality Asylum and Immigration Act 2002, the Home Office set up an Advisory Panel on Country Information (APCI)⁸⁶. The function of the APCI is to review, provide advice and make recommendations to the Home Secretary about the country reports produced by the Home Office, to help ensure that they reflect current issues, and to ensure their accuracy, balance and impartiality, where possible. In practice, the APCI appears to focus on ensuring that up to date political developments in countries are reflected and on stylistic critiques of COIS reports.

In September 2004, as part of a series of detailed investigations into Home Office's reports, the Immigration Advisory Service⁸⁷ published a comprehensive critique, drawing particular attention in their press release to their 'marked lack of objectivity, resulting in a more positive picture of tyrannical and repressive regimes than that given by comparative sources; evidence of poor research methods; and a lack of editorial oversight'⁸⁸. These findings were submitted to the APCI for consideration. The APCI also recently reviewed the April 2006 Pakistan COIS report. As described in Chapter one it criticises the overuse of a small number of secondary sources and the associated dangers of information 'round-tripping' which can undermine, indeed render unreliable, Home Office evidence. It is also noteworthy for its detailed review of COIS's limited attention to increasing instability and political upheaval within Pakistan (a focus which appears to reflect the political 'anti-terror' concerns and priorities of the Western states). This is a positive commentary on how the Home Office needs to recognise its previous neglect of central-border tensions, state-led repressions and related human rights abuses. However, the APCI review fails to connect these issues with their impact on women. Whilst women's positions can be understood to be indicators of wider problems within Pakistan (as discussed in the Pakistan chapters – see in particular the section on the Mukhtara Mai case), the absence of any commentary of the content on women's human rights issues in the COIS report (apart from a reference to improved statistics on violence against women) is of concern, as wider regional instability should not lead to a neglect of the specific impacts on women's positions.

As the APCI's mission statement suggests, there is a considerable onus on report writers to ensure that reports reflect the up to date situation in a particular country accurately, impartially and with balance. This requires reliable primary sourcing where possible, unambiguous interpretive methods and findings. A critical issue addressed by the empirical research conducted for this study was whether Home Office reports on Pakistan stand up to this scrutiny. Other reports on abuses against women in Pakistan, such as Amnesty International's 1999 report (Amnesty, 1999) and the 2001 country report produced by Asylum Aid's RWRP (RWRP, 2001) are now either nearly ten years old or focused or 'generic' commentaries relating to Pakistani women's circumstances. Our enquiry placed particular emphasis on the extent to which the COIS reports addressed in detail and depth Pakistani women's positions in relation to the familial, class, religious and societal structures and their association with women's ill-treatment, as well as the complexities of internal flight (discussed further in Chapters one and eleven).

3.23 Impact of domestic violence on women and service provision

One in three women around the world has experienced sexual violence and other forms of abuse in her lifetime, largely at the hands of male family members (Heise et al, 1999). The Women's Aid website⁸⁹ indicates that one in four women nationally experience domestic violence during their lifetimes and between 6-10% of women suffer domestic violence in a given year. It cites the British

⁸⁵ See http://www.homeoffice.gov.uk/rds/country_reports.html

⁸⁶ For information about the APCI, see their website at: <http://www.apci.org.uk/>

⁸⁷ The Immigration Advisory Service is a national charity which provides advice and representation on immigration and asylum law.

⁸⁸ See <http://www.iasuk.org/C2B/PressOffice/display.asp?ID=194&Type=2,06/09/04> and for a link to the report.

⁸⁹ http://www.womensaid.org.uk/landing_page.asp?section=0001000100050007#common. Women's Aid is the national domestic violence charity which works to end violence against women and children and supports over 500 domestic and sexual violence services across the country.

Crime Survey which found that, nationally, women are also most often sexually assaulted by men they know⁹⁰.

Whilst trying to seek appropriate forms of safety and justice against domestic violence, the impact on women's health and well-being, housing needs, education, employment, financial security, mobility and on their children is well-documented (see Chantler et al, 2001, Batsleer et al, 2002). The financial consequences of domestic violence to the public purse are beginning to cause alarm at central and local government levels. The cost to service providers responsible for meeting women's health, social and criminal justice needs is currently estimated at 23 billion pounds per annum⁹¹ (and that is before the impact on children is taken into account).

Various criminal justice and social policy initiatives to address domestic violence have contributed to raising the profile of the consequences of violence to women. These issues combined with bureaucratic concerns about the financial consequences of domestic violence are also provoking debate on the effectiveness of punishment regimes as well as growing debate on alternative preventative remedies. In the meantime, what are the specific issues and consequences for Pakistani women?

3.24 Impact of domestic violence on Pakistani women

The consequences of domestic violence as described in the preceding sections are common to women globally. However as the above discussion indicates, that South Asian women in the UK often experience additional physical and mental health issues as well as additional barriers to receiving appropriate or adequate support that are compounded by complex relations with family, culture, minoritised status and immigration, notably, a high incidence of unreported self-harm and attempted suicide (Chantler, 2001). This goes beyond the more traditional discourses on gender and class as the underlying structural barriers to women's health and well-being. As described previously and elaborated below, for Pakistani women, this has particular significance. Immigration issues apart, the dilemma between protecting honour and exposing their experiences contributes to women's anxieties and mental ill-health (Aradhana et al, 2005).

A recent study also highlighted the link between domestic violence and substance misuse (Humphreys et al, 2005; Mountian, 2005). Indeed, analysis of South Manchester Law Centre's case studies suggests that some Pakistani women have self-harmed and attempted suicide by using various substances. Given these emerging issues, the extent of overlap of these issues as they affect Pakistani women and how positive interventions by services can be developed is an area that merits further study in its own right.

3.24.1 The silence of shame: consequences for Pakistani women's health and their credibility

There are considerable pressures on women to internalise the effects of violence and to not seek recourse to any external intervention. The complex interplay between family honour and the feminised notions of national honour, combined with the state's role in regulating how women should conduct their lives, results in increasing pressure on Pakistani women whether in Pakistan or the UK. Whilst some women speak out, others may feel equally compelled to remain silent and not seek help and support from services to avoid compounding any perceived dishonour to themselves or their families.

This complex interplay between the public and private nature of their experiences appears to exacerbate women's sense of 'self-persecution' (Chantler et al, 2001) and without doubt, contributes to increased ill-health. Menjivar & Salcido illustrate the critical point at which women who are already vulnerable with immigration-specific concerns are likely to retreat from services, at a time when they are most likely to need them (Menjivar and Salcido, 2002). This inability to access services has wider implications. It potentially leads to women's testimonies being undermined for *not* having contacted 'approved' services. In addition, women's mental ill health and lack of well-being, compounded by the inaccessibility of service provision, can in itself result in the absence of *any* meaningful testimonies when seeking legal justice.

⁹⁰ For more information on see <http://www.womensaid.org.uk/downloads/FAQs.pdf>

⁹¹ <http://www.womensaid.org.uk/downloads/FAQs.pdf> p. 17

A recent study on the impact of sexual violence on disclosure during asylum interviews at the Home Office raised additional concerns (Bogner et al, 2007). The asylum interview process attaches considerable weight to the way and manner in which people disclose and express their experiences. This study indicates the inability of the interviewing process to appropriately draw out testimonies and to sensitively enable accounts to be described. Furthermore, it highlights how the interviewing process can undermine the importance of factors such as shame, dissociation and psychopathology in the difficulties asylum-seekers experienced. Certainly the consequences for women in such a position cannot be under-estimated.

3.24.2 Pakistani women with insecure status: avoidance of services

As women with insecure immigration status, their 'legal status' is an additional factor which may compound their anxieties about approaching services to access support.

Many South Asian women experience tensions between wanting to seek support from external services to draw attention to their particular circumstances and the consequent threat of further violent repercussions from family and community members. What is often deemed to be culturally sanctioned behaviour renders many women silent with fear as their need for self-protection is put in conflict with a perceived need to safeguard family honour (Gill, 2004). South Asian women as asylum seekers, or as women without independent immigration status, are further mired in this tension; they often fear the additional risk of incarceration and removal if they involve external services (Gill, 2004, p.478).

3.24.3 Service provision in the UK for Pakistani women – structural practices and problems

Attempting to quantify the service and support needs of Pakistani women presents many specific challenges. As highlighted in the previous chapter, Pakistani women originate from a country in which domestic violence as a mechanism of control remains rooted in socio-cultural norms and beliefs about women's subordination to men, families, the community at large, and the state. This renders many women, in their apparent acquiescence, silent about their needs (Khalid, 2007). Reference has previously been made to recent research to ascertain the specificity of South Asian women's service provision needs (Chantler et al, 2001, Batsleer et al, 2002). However, as those studies highlighted, services have failed to develop suitable approaches to identify how best to connect with the less visible elements of Pakistani and other South Asian women's experiences. They also demonstrated that domestic violence and other support services continued to operate within a 'racist' framework which prevented this depth of connection, hindered women's access and further contributed to Pakistani women's ill-health and lack of well-being.

There are without doubt practical barriers which *service providers* are subjected to, and which impact on their ability to deliver services to asylum-seekers (Ghebrehewet et al, 2002). Arguably, these are barriers which affect the delivery of services to the whole spectrum of asylum-seekers, for example, insufficient resources, lack of reliable and suitable interpreters, and lack of information about asylum-seekers' health status. Furthermore, these obstacles may be indicative of the inherent cultural practices to which Batsleer et al (2002) make reference. Some of these barriers were identified by participants during interviews in the UK and are examined in Chapters eight to ten.

3.24.4 The ongoing need to culturally sensitise services

This raises questions, about the extent to which support services and providers of welfare still need to culturally sensitise domestic violence services for women of any national origin and immigration status and whether such action is on its own a sufficiently adequate response (Weissman, 2000, Gill, 2004, Burman et al, 2005). This is particularly salient for a historical moment which is witnessing greater global movements of women, from a wider range of countries and ethnicities, than ever before. It is also a period which is experiencing an increasingly high incidence of violence against women, both on a global and national level. It is noteworthy, that there is ongoing discussion in the UK on appropriate ways of devising holistic care and integrated practice for and with black and minority ethnic individuals

and communities who may need to access health and social care services⁹² and other welfare and support services, thus reflecting the need to respond to individualized characteristics in changing populations. In the meantime, concerns about structural barriers, their reinforcement of oppressive practices at many levels including service provision level, and their consequent role in sustaining the distress that many women experience, remain.

South Manchester Law Centre's experience of casework concerning Pakistani women has increasingly demonstrated the need to explore the apparent limitations of social, practical and support services for Pakistani women who are in the asylum system, particularly physical and mental health provision. Where domestic violence services do exist, questions remain about their ability to address the specificities of Pakistani women's experiences efficiently and effectively. These issues are highlighted in Chapters eight to ten.

3.25 UK law on domestic violence

It is useful at this point to briefly identify the various relevant measures in the civil and criminal justice system applicable to Pakistani women⁹³.

This is particularly relevant in cases encompassing the second, third and fourth 'categories' of Pakistani women described in the section 'Pakistani women and the circumstances in which they may seek asylum', as they are more likely to be seeking protection against perpetrators based in the UK (usually a spouse and/or members of the family) as well as in Pakistan. However women who entered the UK with a view to claiming asylum are not precluded; women seeking refugee protection on entry may fear abuse in the UK as well as in Pakistan, for example where they have hostile family members in the UK.

The Pathways to Justice Report⁹⁴ contains succinct and practical guidance on current UK criminal and civil remedies available to women, including Pakistani women with insecure immigration status or asylum claims in the UK. These are remedies which offer some form of legal redress and which may facilitate their access to services.

The measures referred to below can serve two purposes. Firstly, they offer some form of temporary protection to immigrant women in any of the above categories against ongoing actual or threats of violence emanating from within the UK (Weissman, 2000). In addition, they ought to assist in persuading the immigration authorities to delay or avoid coercive measures against their immigration status. Certainly, use of these measures where appropriate and where accessible, can contribute to the body of essential credible evidence, for example, in a woman's asylum claim.

It is relevant to this study that such measures contribute to exposing the Home Office and the fragmented and contradictory way in which it 'manages' domestic violence as it affects women with insecure immigration status. Through its responsibility for dispensing criminal justice via the legal system, its responsibility for the police, and significantly, for immigration control, this intersection of responsibilities within state practice draws attention to the complex relationship between the state, women's distress and their potential to find safety (Burman & Chantler, 2005). It is very likely to dissuade many women with insecure immigration status from requesting intervention to protect them from domestic violence.

We should point out that this study focuses specifically on identifying the range of issues which Pakistani women may be required to confront in their attempts to address their need for protection against domestic violence.

3.25.1 Strategies and remedies under criminal law

At policy level, The Crime and Disorder Act 1997 places a duty on local authorities and the police to

⁹² See Journal of Integrated Care Practical Evidence for Service Development Volume 15: Issue 3: June 2007 Practical Evidence for Service Development

⁹³ For a more thorough discussion of UK provision for women around issues of domestic violence and the practical effectiveness of criminal and civil remedies, see Pathways to Justice: BMER Women, Violence and the Law, Rights of Women, August 2007

⁹⁴ Pathways to Justice. Ibid.

work with other agencies to tackle crime, including domestic violence⁹⁵. Since 2004, Primary Care Trusts are also required to address these issues in multi-agency partnerships, with the police as one of the key partners.

In practical terms, criminal courts have the power to make restraining orders (a civil law remedy) under the Protection From Harassment Act 1997 (PFHA). The Youth Justice and Criminal Evidence Act 1999 introduced 'special measures' for vulnerable or intimidated witnesses to enable, in theory, more effective prosecutions. The Domestic Violence Crimes and Victims Act 2004 is a further attempt to provide a framework for linking criminal and civil law and contains measures which strengthen the powers of criminal courts to enable them to interpose civil law remedies⁹⁶.

3.25.2 Inadequacy of criminal remedies

An analysis of these criminal law measures suggests that they essentially focus on punishing the perpetrator. Whilst punishment of the perpetrator is arguably a form of protection, these measures are considered to be inadequate, inconsistently applied, continue to raise questions about conviction rates and are therefore limited in their ability to protect the women⁹⁷. This fact alone is widely regarded as a key reason why so few women disclose abuse and seek legal protection⁹⁸. Moreover this is compounded by the finding that the most dangerous times for a woman experiencing domestic violence are the periods when she is planning or making an exit, pregnancy and the period following her disclosure of violence⁹⁹. Nor do these criminalizing measures address other socio-legal issues which often arise in domestic violence matters such as housing needs and protecting children. The section on civil remedies below outlines how these some of these gaps might be addressed.

There are also various government led crime reduction initiatives which form part of a long-term approach to devising multi-agency participation and responsibility in tackling domestic violence¹⁰⁰. Alongside this, campaigning work has been led by organisations such as Southall Black Sisters to bring the problem of honour-related violence into the public domain and for such violence to be properly addressed as criminal acts against women's human rights. The Forced Marriage (Civil Protection) Act 2007 is the government's formal acknowledgement of this. In its attempts to tackle honour related violence, this piece of legislation is developing further inroads to bringing together criminal and civil measures and has a key role to play in shifting the emphasis from 'culture' to 'crime'.

3.25.3 Civil remedies

Protection from violence in the home is covered by Part IV of the Family Law Act 1996 (as amended by the Domestic Violence Crime and Victims Act 2004). Under Part IV of the 1996 Act a woman can apply for two types of injunctions: non molestation orders which provide protection from violence and abuse, and occupation orders which determine the occupation of the family home. The Act also introduced the new concept of 'associated persons', where a woman is legally 'associated' to an abuser. The concept allows for the broad range of relationships which exist between people and within families, beyond traditional 'husbands and wives'. The 2004 Act, inter alia, widens the protection to, for example, same-sex and non-cohabiting couples, criminalises breaches of non-molestation orders and widens the definition of 'associated persons' to include cousins. Access to these measures is largely dependent on access to legal aid funding¹⁰¹.

⁹⁵ The summary in this section is laid out in more detail in the Women's Aid Federation of England website (see footnote 90), 'A Guide to Domestic Violence and the Law', published by Rights of Women, (January 2007) and the Rights of Women report 'Pathways to Justice', pp.120-132.

⁹⁶ 'Focus on Women', 7th Edition of the Rights of Women Policy Newsletter, 08/06/07: in spite of the fact that its name has been criticised as a misnomer: a mere 8 pages out of 130 in the Act relate specifically to domestic violence and it is now regarded as a bill relating to general crime such as road accidents rather than living up to the government's claims that it would radicalise the law on domestic violence

⁹⁷ Women's Aid Federation of England, March 2006 <http://www.womensaid.org.uk/page.asp?section=00010001000900050001>

⁹⁸ Women's Aid Federation of England, *ibid*.

⁹⁹ Women's Aid Federation of England, *ibid*.

¹⁰¹ See <http://www.crimereduction.homeoffice.gov.uk/>

¹⁰¹ See the Pathways to Justice report, pp.155-157 for practical guidance on accessing public funding to pursue legal redress.

It is interesting that unlike the US (see Goldman, 1999), domestic violence legislation in the UK does not make specific independent provision to regularise a woman's immigration status where she has fled a marriage because of domestic violence.

3.26 Relevant political and legal changes in the UK during the study period

The UK government's determination to respond to 'public' anxiety about a range of immigration issues as well as the national pre-occupation with asylum and terrorism, has culminated in, what many consider to be, yet further draconian legislation. We have outlined below new measures introduced during the study period and which will have a direct impact on Pakistani women who seek protection against domestic violence.

3.26.1 Applying for indefinite leave to remain following grant of refugee status: new tests to assess language skills and knowledge of 'life in the UK'

If a woman is granted asylum, she will be recognised as a refugee within the terms of the Refugee Convention. After five years with refugee status, a woman can apply for indefinite leave to remain (ILR). All refugees aged between 18-65 who are eligible to apply for ILR on or after 2 April 2007 must show that they have sufficient knowledge of English and 'life in the UK' either by passing a 'life in the UK test' or gaining an approved ESOL qualification¹⁰².

Women who entered the UK under the spouse visa, and subsequently leave their spouse because of violence, can still apply for ILR under the domestic violence immigration rule. Women who fall within this category are exempt from these new language and citizenship tests.

3.26.2 UK borders act 2007

This Act received its Royal Assent on 30 October 2007 having been first introduced in January 2007. This Act introduces a raft of measures consistent with the general pattern over the last ten years of legislation on immigration control. Its aim is to defend the UK's borders from illegal immigration and organised crime by increasing powers for immigration officers, further reducing the rights and mobility of people subject to immigration control¹⁰³.

3.26.3 Forced marriage (civil protection) act 2007

This Act received its Royal Assent on 26 July 2007. The Act is not yet in force and will not be a 'stand alone' Act; it will be incorporated into the Family Law Act 1996. The aim of this legislation is to prohibit forced marriage *in the UK*.

It also aims to allow third parties to start legal action on behalf of a woman threatened with a forced marriage, not just in the high court but also in the county courts. Furthermore, it aims to include criminal sanctions and civil remedies¹⁰⁴.

This chapter has provided an overview of how refugee law in the UK has developed to recognise domestic violence as a form of persecution and has highlighted the difficulties many Pakistani women have nonetheless experienced in accessing protection. It has also drawn attention to the complex relationship between service provision in the UK and Pakistani women's experiences of attempting to gain support and safety. The chapters which follow provide an overview of the material gathered from interviews conducted in the UK.

¹⁰² For further details see <http://www.ind.homeoffice.gov.uk/6353/11464/gandaapril2007.doc>

¹⁰³ For progress on the timeline for implementation of the Act see http://www.publications.parliament.uk/pa/pabills/200607/uk_borders.htm

¹⁰⁴ See the Pathways to Justice report pp. 133-142 for a description of the criminal and civil provisions in the Act.

Aktar's case

Aktar is a shi'a Muslim. Her father is a wealthy landowner and prominent political figure in their local shi'a community. Aktar's father held a senior position in the regional branch of a radical shi'a political organisation, now banned by the Pakistani government as it has been dubbed a terrorist organisation. He joined a new shi'a group which is now under international scrutiny.

At the age of 17 and still at college, Aktar saw and fell in love with a sunni Muslim teenager from the adjoining boys college. He too noticed Aktar and fell in love. He came from a wealthy landowning family of sunni activists; he himself had been a student leader with a prominent pro-sunni organisation. They managed to exchange notes and meet secretly. This liaison continued for a short period. Aktar's father had plans to marry her to one of his nephews. She discussed the problem with her boyfriend. The couple were in love. Helped by his male contacts who were well connected, he arranged a 'court' marriage. The couple got married in secret.

The couple returned to their families initially, but did not disclose any information about their relationship or their secret marriage until nine months later. Aktar's father continued to apply pressure on her to marry his nephew. On informing her husband about the tensions at home, he told his family what they had done. His family were furious but decided to enter into negotiations with Aktar's father to bring the matter out into the open. On hearing the news, Aktar's father threatened to kill her. Aktar immediately fled to her husband's family house. They were only willing to give her short-term shelter because they feared reprisals from her father. He informed her before she had fled that she had dishonoured herself, him and his family. He told Aktar she must pay to protect his honour.

Aktar's husband and his family arranged for her to be moved to different addresses in Pakistan to avoid being tracked down by her father. Because of her father's connections, she could not go to the police. A couple of months later, her husband's family sent him to the UK to study, without her. For four years, Aktar continued to live in different places with different contacts arranged for her by her husband. She moved to different parts of the country for short periods, to avoid being tracked by her father or his contacts. On several occasions, Aktar's husband returned to Pakistan to meet her at the secret locations. On one occasion, he arranged for her to obtain a visit visa to stay with him in the UK for a period. She did not claim asylum in the UK on that occasion. The couple had wanted to live safely in their homeland.

Soon after her return, whilst still staying in a secret location with her husband's contacts, Aktar gave birth to the couple's son. A few weeks later, during one of the few occasions when she had gone out, an armed motorcyclist pulled up near her and drew out a knife with a view to stabbing her. It was clear to Aktar that her father had managed to track her down. After this incident, and following extensive arrangements, Aktar arrived in the UK with her son and claimed asylum at the airport on arrival.

Her claim was based on her fear of her father, his threats to carry out an honour killing, the fact that as a wealthy political figure linked to an extremist shi'a movement he could wield influence anywhere in Pakistan, that the police and other state authorities cannot protect Pakistani women against such powerful and connected men and that she could not live safely anywhere in the country. She produced extensive documents about her father's extremist politics, some which contained his name as a prominent figure. She was able to produce these documents and get regular updates about her father's threats via a sister who lived in the US but had retained contact with the family in Pakistan. The Home Office rejected her asylum claim.

On appeal, the decision went in Aktar's favour. The judge found her to be an articulate, well-educated credible witness who had produced reliable documents. The judge accepted Aktar's evidence that her father intended to kill her. The judge held that Aktar could not live safely anywhere else in Pakistan. The Home Office appealed against that decision; they disputed findings on the extent to which the Pakistani state can offer protection and the findings on internal flight. At the next appeal, the tribunal agreed with the Home Office that whilst Aktar

could not return to her home area because of father's influence there, she could move with her young child to another area of Pakistan, in spite of the fact that she had already spent years 'on the run' and had eventually been tracked down. They held that whilst state protection was limited, it existed to a 'sufficient' degree. The tribunal also held that it would not be 'unduly harsh' for her to establish her own life elsewhere in the country with her child. The tribunal stated that her husband had a 'personal' duty to abandon his studies and return with her and their child to provide male protection. Finally they held that there was insufficient evidence that her father would ever know of her return to Pakistan; that he would find out where she was living; that he still desired to carry out an honour killing against his own daughter; that his influence was not limited to his local area; and that she could not get state protection in another area.

Following two suicide attempts since her arrival in the UK, the couple's marriage broke down. They divorced in the UK. Aktar attempted a fresh asylum claim, on the basis that she would have to return as a single parent, that her father continued to make threats against her. The Home Office rejected her second claim for all of the above reasons. Subsequently, Aktar produced further fresh evidence of her father's resurgence as a political figure in connection with another extremist shi'a party. Through a contact in Pakistan, she obtained newspaper cuttings covering the whole country which reported on her father's speeches to shi'a groups on the scandal concerning cartoons depicting the prophet Mohammed. His speeches were designed to agitate and mobilise the shi'a. One speech contained his comments about the need to control and subjugate women. At the time of writing, Aktar was considering her options.

Chapter four:

The Pakistan context

This chapter outlines some key features of the geographical, political, sociological and legal framework of Pakistan which give rise to the marginalisation of women. Where appropriate, it draws upon both contemporary documentation and analyses of the Pakistani context and, for illustrative purposes, includes quotations from some participants whose accounts were generated as part of the study.

Pakistan has complex internal social and political structures defined by its constitution at both governmental and legal levels, which are in turn structured by both urban and rural factors. This chapter considers these complexities and local (i.e. provincial) variations, as well as the consequences for women's rights and the prevalence of domestic violence.

International events like 9/11, 7/7 and the so-called 'war on terror' have also had an impact on the social and political structures of Pakistan. The 'war on terror' for many Islamic states has been interpreted as a 'war on Islam' and this perceived attack has had the effect of encouraging a more inward looking perspective. As a result many Muslim communities increasingly feel a need to close ranks against what they perceive as 'western imperialism'. Thus in considering the political and legal systems, it is relevant to keep in focus the international perceptions of Pakistan as a state with dominant Islamic influences. Alongside this, and in some respects precisely because of this, western (especially US) scrutiny of and support for Pakistan has also mediated relationships *within* Pakistan, in particular between the Government and border regions.

4.1 Rationale for regions studied

These regions were selected for two key reasons, arising both from the UK and Pakistan contexts. Firstly, the regions were chosen because of the composition of the Pakistani community in the catchment areas served by South Manchester Law Centre. Secondly, due to the size of the country and the difficulty in travelling outside urban areas and the necessity of limiting the scope of the study, a decision was made to focus on key cities and towns in the selected regions. Hence in the region of Punjab, the places visited and researched were Lahore, Faisalabad, Islamabad, Rawalpindi and Gujjar Khan; in Sindh, Karachi and Hyderabad; and in the North West Frontier Province, Peshawar.

As is discussed later in this section of the study, the issues affecting women vary across the regions. They are influenced not only by patriarchal systems, perspectives, values and attitudes towards women, but also by conflict resolution systems such as the *Jirga* (tribal council of elders) the *Panchayat* (council of elders) in the villages, and civil and criminal courts in the towns and cities. Local customs and practices in these areas also have an impact on women's lives.

4.2 Some key facts about Pakistan

It is helpful to begin with a reminder of some key facts about Pakistan.

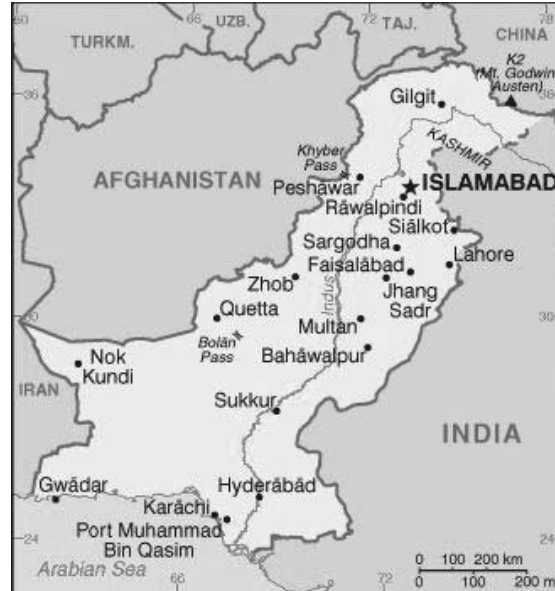
4.2.1 Historical and geographical context

The Islamic Republic of Pakistan is located in South Asia and shares an eastern border with India and North-Eastern border with China. Iran makes up the country's southwest border, and Afghanistan runs along its western and northern edge. The Arabian Sea is Pakistan's southern boundary with 1,064 km of coastline.

One of Pakistan's neighbours, Afghanistan is currently the focus of international intervention. Pakistan has had a turbulent relationship, both past and present, with another neighbour, India. In addition Pakistan is a military state. It therefore cannot help but attract high levels of international scrutiny.

The country has a total area of 796,095 sq km and is nearly four times the size of the United Kingdom.

Figure 1: Regional Map of Pakistan



The Islamic Republic of Pakistan was created on 14th August 1947 as a result of the partition of India. It officially comprises four provinces: Punjab, Sindh, NWFP and Balochistan. In addition, NWFP and Balochistan have Federally Administered Tribal Areas (FATA) and the Federally Administered Northern Areas (FANA), which are governed by the Islamabad Capital territory. Pakistan administered Kashmir is known as Azad Jammu and Kashmir.

The World Health Organisation in 2005 estimated the population of Pakistan to be just under 158 million and growing at a rate of 1.92% annually. 97% of the population is Muslim, belonging to the sects of Sunni, Ahmadi and Jafari (Shia), while the remaining 3% belong to other faiths such as Christianity and Hinduism. Hence the strong links between Islam and the State and the fact that the law, customs and practices are strongly influenced by Islamic tradition.

Poverty remains a very serious problem in Pakistan. A substantial part of the population lives in poverty. In 2003/4 it was estimated that 28.35 of the population was living in poverty (calculated as adults getting less than 2350 calories/day or Rs748.56 (£7.50) equivalence per month). The estimated literacy rate for 2001 was 49.51% (people who are able to read with understanding and can write a short statement (CEDAW report submitted by Pakistan, 3.8.05). Only 20.8% of rural families are literate (HRP in South Asia 2001). The gross enrolment rate at the primary school level for urban women was 87% while that of rural women was 52%. The figures for males were 94% and 80% respectively. The gross enrolment rate for middle school level was 68% while that for rural females was 21%.¹⁰⁵

These demographics illustrate that in general women's literacy and educational levels are far lower than their male counterparts. Women in rural areas are even less likely to have access to educational opportunities.

The major Political Parties in Pakistan are the Pakistan Muslim League – Quaid-i-Azam (PML-Q); Pakistan Peoples Party (PPP); Muttahida-i-Amal (MMA) (a coalition which includes the Jamaat –i-Islam and the Jamia-e-Ulema Islami); Pakistan Muslim League – Nawaz (PML – N); Muttahida Qaumi Movement (MQM) and Awami National Party (ANP).

¹⁰⁵ Statistics are taken from the report submitted by Pakistan to CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) on 3.8.05, accessed at: <http://daccessdds.un.org/doc/UNDOC/GEN/N05/454/37/PDF/N0545437.pdf?OpenElement>, last accessed, 19/11/07.

The table below is an indicator of the political affiliations of each party and indicative of their particular ideology, especially with regard to issues affecting women, and the political hold they have in the four regions of Pakistan.

Table 4: Political Affiliations of Pakistani Parties

Political Party	Political spectrum/ Ideology	Government representation	Geographical dominance
Pakistan Muslim League – Quaid-i-Azam (PML-Q)	Centrist (with right-wing Leanings)	Representation in National Assembly (342) Seats in total	Punjab, Sindh Balochistan
Pakistan Peoples Party (PPP)	Centrist	58 seats	Sindh, Punjab
Muttahida-i-Amal (MMA) (coalition which included the Jamaat-i-Islam and the Jamaat-Ulema Islami)	Right-wing Islamist	60 seats	NWFP, Balochistan
Pakistan Muslim League – Nawaz (PML – N)	Right-wing (Centrist)	18 seats	Punjab, NWFP
Muttahida Qaumi Movement (MQM)	Centrist	16 seats	Urban Sindh
Awami National Party (ANP).	Left-wing	None	NWFP

At the time of conducting this study the current Head of State (President) was General Pervez Musharaf, the Prime Minister was Shaukat Aziz and the Foreign Minister was Mian Khurshid Mehmood Kasuri.

Pakistan's membership of international organisations includes the United Nations; the Commonwealth; the Organisation of Islamic Conference (OIC); and the Asean Regional Forum (ARF). There are various ethnic groups in the country including Punjabi, Sindhi, Pashtun (Pathan), Baloch and Muhajir (immigrants from India at the time of partition). Urdu is the national language; there are a number of regional languages including Punjabi, Pashtu, Sindhi, Hindko, Siraiki and Balochi. In addition to the regional languages there are a significant number of local dialects.

4.2.2 The constitution

In the context of this study, the following are the relevant articles of the Constitution of Pakistan.

The articles below from the Constitution of Pakistan state:

- *All citizens are equal before law and are entitled to equal protection of law. There shall be no discrimination on the basis of sex alone.*
- *No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of sex...*
- *Steps shall be taken to ensure full participation of women in all spheres of national life.*
- *The state shall protect the marriage, the family, the mother...*
- *The state shall... (ensure) that... Women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment*¹⁰⁶

¹⁰⁶ Constitution of Pakistan – Articles 25, 27, 35, 37

This can be compared to the UN Declaration of Human Rights, of which Pakistan is a signatory.

- *All human beings are born free and equal in dignity and rights....*
- *Everyone is entitled to all the rights and freedoms set forth in this Declaration,*
- *without distinction of any kind....*
- *All are equal before the law and are entitled without any discrimination to equal protection of the law...*
- *Men and women of full age... are entitled to equal rights as to marriage, during marriage and at its dissolution.*
- *Marriage should be entered into with the free and full consent of the intending spouses.*
- *Everyone has the right to equal access to public service in his country.*
- *Mother and childhood are entitled to special care and assistance.*¹⁰⁷

It could be argued that if the above cited articles of the Constitution of Pakistan were implemented then violence against women would be substantially reduced (see above). However, this has not been the case. Instead, Pakistan has witnessed an increasing number of crimes against women throughout the country. As Dr. Farzana Bari noted in an article published in the Pakistani daily newspaper *The News*: 'A major reason for the increase in the incidence of violence against women is the weak response of our criminal justice system.'¹⁰⁸ This arises in part because the Constitution directly conflicts with local laws and customs. It is widely acknowledged that local customs and practices often uphold the power of the powerful and dominant men in these communities. The Constitution espouses laudable principles but is of little relevance when custom and practice is allowed to influence relationships between men and women.

An example of which illustrates the contradiction between the Constitution and custom is the practice of '*Swara*' (blood money in the NWFP). Under this practice where there is a dispute, girls are often handed over by their families to the aggrieved party in an effort to end blood feuds. They are used as commodities between families and tribes. This is clearly in breach of the Constitution where it states '*All citizens are equal before law and are entitled to equal protection of law. There shall be no discrimination on the basis of sex alone*'¹⁰⁹. Young women/girls in the NWFP do not gain protection from the Constitution and the violation of their basic and fundamental human rights often goes unchallenged.

4.3 Government structure of Pakistan

4.3.1 Relevance of government structures

It is important to have a clear grasp of the organisation of government structures at federal, provincial and district levels, and their inter-relationships, in order to understand the impact and influence on lives of women. Indeed, many provincial and district government services have no significant relationship with the federal government, thus allowing local government a greater deal of autonomy in the interpretation and enforcement of key legislation. Hence legislation and decisions taken at federal level might espouse a positive slant on women's lives, but when interpreted at a provincial level and carried out at district level, can get diluted and is often ignored in practice. It is widely acknowledged that local government at provincial and district levels often compromises the rights of women in the context of family and community.

4.3.2 Overview of the government structure

Decision-making within the legal context in Pakistan is influenced both by the geographical location and related government structures. In order to understand the decision making processes and their

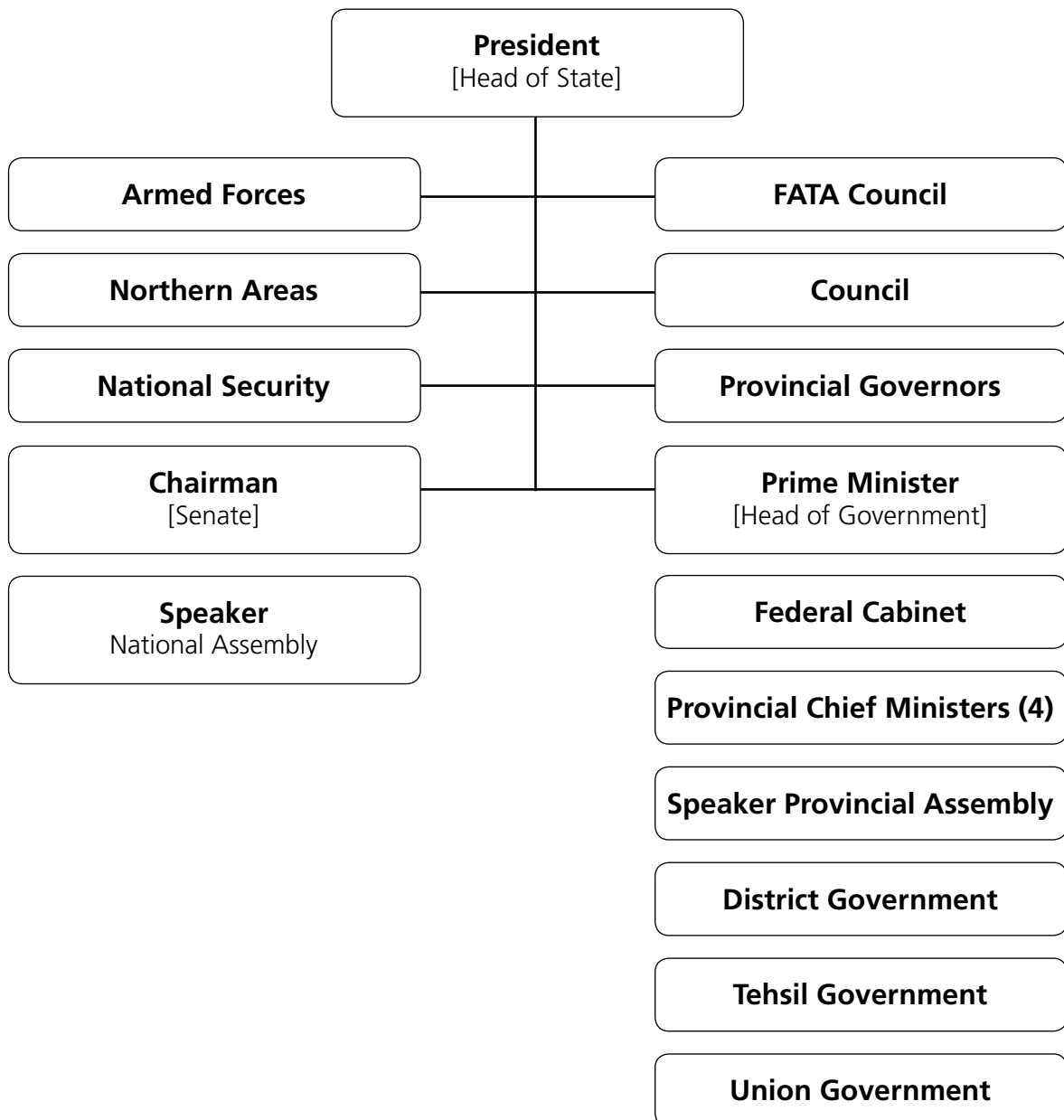
¹⁰⁷ Universal Declaration of Human Rights, Articles 1, 2, 7, 16, 21(2), 25(2), cited from the Human Rights Commission Pakistan – State of Human Rights in 2006, http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

¹⁰⁸ Bari, F, 'The politico-social aspect of rape', *The News*, Feb. 07, 2005, p.6.

¹⁰⁹ Constitution of Pakistan, Guarantees of Equality & Non- Discrimination: Articles 25, 26 & 27

functions, it is necessary to outline the government structure of the country. It is also relevant to bear in mind that since the creation of Pakistan in 1947, the country has gone through 25 years of martial law, several constitutional crises and sectarian violence which has led to political instability.

Figure 2: Pakistani Government – Functions and Relationships



Adopted in 1973 the Constitution of the Islamic Republic of Pakistan, provides for a Federal Parliamentary System with the President as Head of State and a popularly elected Prime Minister as Head of Government. The Federal Legislature is a bicameral Majlis-e-Shoora (Parliament), composed of the National Assembly (Lower House) and the Senate (Upper House).

A citizen of Pakistan has the right to vote for members of the National Assembly, provided they are 18 years of age or over. Seats on the National Assembly are allocated to the Islamabad Capital Territory, Federally Administered Tribal Areas and the four provinces (Punjab, Sindh, NWFP and Balochistan). The numbers of seats allocated are variable, as they reflect proportionally the local population in the identified areas. The parliamentary term served by National Assembly members is five years, subject to death, resignation or its dissolution. Majority of the members are Muslims, with about 3% of the seats (10) being reserved for Minorities.

The President is the Head of State and is elected by members of the Senate, National and Provincial Assemblies. The President appoints the Prime Minister from members of the National Assembly. The Prime Minister is assisted by the Federal Cabinet i.e. a Council of Ministers whose members are appointed by the President, on the advice of the Prime Minister.

4.3.3 Provincial assemblies

The Provincial governments, via the Provincial Assembly, are delegated powers by the National Assembly to conduct their local affairs. This means that there are variable practices across the four provinces, depending on local interpretation and decision-making by the Provincial Assemblies. In the context of this study, it is important to understand how decision-making at this level influences and impacts upon services and practices related to women.

Each of the four provincial assemblies elects members from their respective provinces. The total number of seats in Punjab assembly is 371, out of which 66 are reserved for women. In Sindh, out of total of 168 seats, 29 are reserved for women; In NWFP, out of a total of 124 seats, 22 are reserved for women; In Balochistan, out of a total of 124 seats, 11 are reserved for women. Elections are held in the same manner as those to the National Assembly. The four provinces have a Governor, a Council of Ministers headed by a Chief Minister appointed by the Governor, and a Provincial Assembly.

Although the division of responsibilities is well defined between the Federal and Provincial governments, there are some areas where both can make laws and establish departments for the execution of their responsibilities. The Provincial government is responsible for providing services in areas such as health, education, agriculture and roads. Although the Federal government can also legislate in these areas, it only makes national policy and handles international aspects of those services.

This system is essentially based on the Devolution of Power Plan that has reserved 33% of the seats for women. These reserved seats are directly elected at village level for union councils and indirectly elected at district and sub-district levels for Zila (sub-district) and Tehsil (district) councils.¹¹⁰

However despite the positive intentions expressed in the Plan, the reservation of seats for women has not succeeded in giving them a real voice to women. By its very nature the system of representation discriminates against women. Given that the overwhelming majority of women in Pakistan are poor and have very limited literacy skills they are mostly dependent on the men in their communities. Consequently they remain under and unrepresented in local government and are susceptible to manipulation and pressure in decision-making.

4.3.4 District government

The District Government is responsible to the Provincial Government and its people for the improvement of governance and delivery of services. The Provincial Government can decentralise, through the creation of district government, the implementation of key decisions related to policies and services. These are established in every Tehsil or town in a city district depending upon its needs. There is no direct connection with Federal government and any link occurs through the Provincial government.

The Zila Nazim (Sub-district Chief/Manager) heads the District Government. Responsible to the District Government is the Tehsil Nazim (District Chief/Manager) who headed the Municipal Administration is responsible to the district government. The final tier is the Union Administration, which is a corporate body and covers both urban and rural areas across the whole district. It consists of the Union Nazim, Naib Union Nazim (Assistant Manager) one Union Secretary and other ancillary staff.

4.3.5 Gender representation

From the time of the creation of Pakistan in 1947, seats were reserved for women in the legislature in addition to their rights to contest general elections. This provision expired after the 1988 election and

¹¹⁰ Bari, F, Local Government Elections. December 2000 – (Phase 1) Local Government Elections. Islamabad: MOWD (Ministry of Women and Development), 2000.

was then revised in 2002 by the present government. 60 seats (17.5%) have now been reserved for women in the National Assembly and in the Senate and 17% of seats in the senate have been reserved in the Provincial Assemblies.

In terms of explicit measures on gender and political representation, both women and men have equality of political rights under the Constitution as regards voting and contesting all elective offices. The Fundamental Rights in the Constitution guarantee the equality of all citizens before the law and forbid discrimination on the basis of sex alone, but provide space for affirmative action for women by the State. The Principles of Policy further state that steps will be taken to ensure the full participation of women in all spheres of national life.

Despite the fact that women have been given representation in the legislative system, this has not had an appreciable effect on their position. This is particularly evident in the interpretation and enforcement of domestic and family law.

4.4 Legal systems

4.4.1 Introduction

This section will discuss the legal systems in Pakistan focusing on the judiciary, and the parallel judicial system (which includes the Federal Shariat Court, geographically specific parallel judicial systems, the West Pakistan Ordinance I and II of 1968 and the tribal justice system). We will examine how these systems inter relate and how they collectively fail to positively support and protect women and their rights.

4.4.2 Judiciary

What may be described, as the ordinary judicial system comprises the “lower” and the “superior” judiciary. The lower judiciary operates at district level and consists of civil, district and sessions courts.

The superior judiciary consists of the provincial high courts and the Supreme Court and has original and appellate jurisdiction. The President appoints the Chief Justice of the Supreme Court and in consultation with him, the other judges of the Court. Appointments of judges to the Provincial Courts are made by the President after consultation with the Chief Justice, the Governor of the province and the Chief Justice of the High Court to which the appointment is made. It is a matter of record that the Chief Justice is independent from the President. This was confirmed in early 2007 during a political fall out, where the President was challenged about the independence of the judiciary and the Chief Justice was finally reappointed after public demonstrations.¹¹¹

A further feature of the legal system is the office of the Wafaqi Mohtasib (Ombudsman). He enforces administrative accountability by investigating and rectifying any injustice done to a person through maladministration by a federal agency or a federal government official. This institution has been introduced to try and bridge the gap between administrator and citizen, to improve administrative processes and procedures, and to help curb misuse of discretionary powers.

4.4.3 Parallel judicial system in Pakistan

There are a number of judicial systems operating simultaneously in Pakistan that can be described as ‘parallel judicial systems’.

“Parallel judicial systems can be defined as forums functioning parallel to the ordinary courts. Stated simply [they are] a complete hierarchy of forums under which particular person[s] or classes of persons are tried or have their civil disputes adjudged under special laws to the exclusion of the ordinary courts of the country.”(Ali and Arif 1998)

Some systems operate exclusively in the tribal areas, others throughout the country. Examples of parallel judicial systems are the Federal Shariat Court (FSC), Martial Law Courts, the Special Anti Terrorist Courts and the Tax Tribunals. These different systems have particular historical and religious roots.

¹¹¹ See report in Pakistan Governance Forum e-newsletter which can be accessed at: <http://theresearchers.org/PGF/Mar-07/enews.htm>, last accessed 17/11/07.

In order to understand the context of the legal system and evaluate its response to domestic violence, it is important to outline the parallel judicial systems that operate in the different regions of Pakistan.

4.4.4 Parallel religious judicial systems

The Federal Shariat Court (FSC) and Shariat Appellate Bench (SAB) function alongside the ordinary judicial system and their jurisdiction applies to the country as a whole. They came about as a result of the process of 'Islamisation' introduced by General Zia ul Haq in the 1970s. General Zia reactivated the Council of Islamic Ideology (CII) to codify the Hudood Ordinances (discussed later in Sec.4.5.2) which were promulgated in 1979.

The Shariat Benches were formed in the High Court and the Shariat Appellate Bench introduced in the Supreme Court to enforce the Hudood Ordinances. In section 4.5.1 we will examine how the Hudood Ordinances criminalised non marital rape and extra marital sex and provided Quranic punishments, including death by stoning for adultery as well as jail terms and fines. While there is no record of the Quranic punishment of death by stoning having been carried out, the Hudood Ordinances remain in force with many women imprisoned under them.

The courts advise the government on how to reformulate laws to conform to Islamic injunctions. In addition the FSC and SAB have been given power to strike down legislation that contravenes Islam. The FSC and SAB combine legislative, executive and judicial powers in one body. This jurisdiction is criticised by some for being neither representative of the people, nor autonomously constituted. The judges of the FSC are in fact appointed by the President and can be removed at will.

Furthermore, a number of '*ulemas*' (religious scholars) sit on the benches of the FSC and SAB. In general, few of them are regarded as well versed in law and some are known to have misogynistic views. It would therefore be unlikely that they would interpret Islamic law in a manner favourable to women's rights. Moreover, there is a conflict between the Federal Shariat Court/Shariat Appellate Bench and the Council of Islamic Ideology as to which of them is supreme.

4.4.5 Geographically specific parallel judicial systems

In addition to the parallel religious judicial systems, Pakistan has retained a number of geographical judicial systems, mostly inherited from the days of colonial rule. These systems gave power and influence to local leaders, whose loyalty to the British was rewarded by allowing local practices of custom and tradition to function without central interference. The legacy of this has allowed for the creation of a separate judicial system that does not come within a human rights framework.

One of these systems is the Frontier Crimes Regulation (FCR), which was retained post independence and was the first geographical parallel judicial system in Pakistan. Its focus is on the suppression of crime. It still operates in the federally administered tribal areas. Under this system, the accused has no right to legal representation, bail or appeal. The usual penalties consist of fines but sentences of up to 14 years imprisonment can be imposed. As Patel, (2003) notes:

"The FCR authorises the settlement of quarrels by the Jirga that arise out of zan, zar, zamin (women, money and land) It is worth noting that women are included as a subject matter for the Jirga to decide upon, along with money and land. This reflects the notion that all legal disputes include women, along with money and land, and that a woman is considered part of a man's property, like other property. These are the characteristics of male domination and feudalism, exercising control over women as a matter of honour and prestige. This attitude is not confined to tribal Jirgas, it is an attitude which finds expression all over Pakistan" (Patel, 2003, p.153)

The implications and consequences of the geographical parallel judicial system could be argued as being even more detrimental for women than men, given the existence of traditional belief systems where women are still considered 'property' of men (in the same way as money and land). Moreover, the operation of the Muslim Family Laws Ordinance 1961 and the Family Courts Ordinance has not been extended to Provincially Administered Tribal Areas where the FCR is in force. Hence the power of Jirgas (see later) goes unchecked. Even where women's rights have been established e.g. in relation to inheritance, child custody etc, women are unlikely to get relief from a Jirga since by its very constitution, it represents the interests of the male elite.

4.4.6 The West Pakistan ordinance I and II of 1968

This provides a special procedure for the trial of certain criminal offences that are heard by a tribunal, headed by a member of the executive appointed by the Deputy Commissioner. The tribunal submits its findings to the Deputy Commissioner who can either acquit, or convict or refer the matter to a second tribunal. The Deputy Commissioner's powers are arbitrary. He can acquit an accused of murder, even when on the facts of the case he or she is guilty. There is no right of appeal to the ordinary courts.

As an example of the discriminatory nature of the ordinance section 14 of the Ordinance provides punishment "for a woman who knowingly commits adultery, but no such punishment is provided for the man who is an equal partner in the act" (Ali and Arif, 1998, p.48). Section 30 of the FCR makes similar provision.

4.4.7 The tribal justice system

Amnesty International describes the system of tribal justice in Pakistan as rooted in tradition; it has no formal legal recognition in the country except in specifically designated tribal areas.¹¹² However it also operates outside designated tribal areas such as the interior of Sindh and rural areas of Punjab. The HRCP, State of Human Rights 2006 stated that: "Despite a ban in 2004 on Jirgas by the Sindh High Court they continued to be held across the province. From Jan – June 2006 at least fifty 'Jirgas' were held."

Khan also notes:

"Informal mechanisms of dispute resolution have been functioning since many centuries in the subcontinent. The administration sought to institutionalise them as Alternative Dispute Resolution (ARD) mechanisms during the colonial era." (Khan, 2004, p.6)

Article 247(7) of the constitution specifies that the jurisdiction of the higher judiciary i.e. the Provincial High Courts and the Supreme Court does not extend to the designated Federal Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA). These areas have their own legal and judicial systems, which incorporate some form of tribal adjudication that is often contradictory to the Constitution. The equality principles embodied in the Constitution are not reflected in the tribal justice system.

The tribal justice system is based on the 'Jirga' (meeting of elders) or 'Panchayat', which is headed by the Sardar (head of tribe). 'Jirga' literally means 'meeting' and 'Panchayat', means 'council of elders'. In Sindh the term is *Faislo* is used for both the meeting and the decision.¹¹³

Tribal Jirgas, consisting of elders of the tribe are headed by the Sardar – or if the dispute is of less importance - local heads of the tribe, can either be called upon on an ad hoc basis or take place regularly. They deal with a range of issues, including conflicting claims to land and water, inheritance, alleged breaches of the 'honour' code and intra-tribal or inter-tribal killings. An SDPI survey conducted by Khan (2004) indicated that 33% of people accessed informal structures (Jirgas) to resolve issues and only 22% went through the formal structures. Significantly, the informal method of resolving disputes is relied upon because of its expediency and avoidance of financial cost.

Sardars have no formal training in 'adjudication'. In interviews with Amnesty International they were documented as saying that their knowledge as to how to conduct Jirgas has been passed down from their fathers. One Sardar was quoted as saying, 'It's all in my head, there is no need to codify it... I have my own intelligence to tell me what is just'¹¹⁴. Others have claimed that while not codified, the principles of tribal justice are well defined and understood by everyone. However Pakistani women's organisations have expressed strong criticism of the effects of this system.

The Jirga system is rooted in tribal customs and controlled by the male elders. Many of the tribal leaders themselves are parliamentarians and in practice, the Faislo is often used by political party representatives to reinforce their social hold over their constituents. (Shah, 1998)

¹¹² See 'The Tribal Justice System' – Amnesty Internal AI Index: ASA 33/024/2002 – 1 August 2002.

¹¹³ The Tribal Justice System – Amnesty Internal AI Index: ASA 33/024/2002 – 1 August 2002.

¹¹⁴ The Tribal Justice System – Amnesty Internal AI Index: ASA 33/024/2002 – 1 August 2002.

From our own study the worker from the Aurat Foundation (Karachi) told us that:

"The Chief Minister's house operates a Jirga system even now."

The widespread use of this system, mainly in rural areas, works to discriminate against women, particularly when dealing with the issue of 'honour'. Moreover it is also extremely difficult to change the attitudes of the public in Pakistan when the *Jirgas* are led by politicians and accepted by the government as a form of resolving matters expediently. As discussed below, this is illustrated by how the government failed to intervene in the case of Mukhtar Mai who was punished by the *Jirga* for a crime she had not committed.

Indeed as HRCP (2005 – page 182) commented:

*"Indeed, the increasing number of 'Jirgas' held in various parts of the country often resulted in verdicts that greatly damaged the safety and interests of women."*¹¹⁵

To illustrate the use of the *Jirga* system and the anomalies with the Constitution we have two examples.

Case study: Mukhtaran Mai

In June 2002, Mukhtar Mai, a 30 year old woman of the Gujjar tribe from the village Meerawali in the Punjab province was sentenced by the *Jirga* to be gang raped as a punishment for her younger brother's alleged 'illicit affair' with a woman from the Mastoi tribe. This is a significant example of the government failing to intervene. Effectively, the government accepted the *Jirga's* decision

As has since been widely documented in the media, Mukhtar Mai has said that although she appealed to everyone present in her village for mercy (there were hundreds of residents present), no one dared to oppose with the *Jirga's* decision that she should be gang raped as punishment for her brother's actions. Mukhtar Mai was then gang raped, by four men, including one member of the tribal council, and made to walk naked through the streets of her village.

The Governor of Punjab set up an official enquiry which concluded the 'illicit affair' was fabricated to hide the sexual abuse of her brother, Shakoor, by three men from the Mastoi tribe. When Shakoor threatened to tell his family about the abuse, the tribesmen handed him over to the local police station. The Mastoi tribesmen then publicly alleged that Shakoor had an 'illicit affair' with an older woman of their tribe and summoned a *Jirga*. There were national and international protests after a local cleric mentioned Mukhtar Mai's case in Friday prayers and a journalist picked up the news. The local police only accepted a complaint by her (she went to file the case against the wishes of her family) seven days after the offence, when a delegation of lawyers met the local police authorities and insisted on registering the complaint.

The progress of this complaint was far from smooth. In August 2002, the Supreme Court tried fourteen of the accused and condemned six of them to death. They were also ordered to pay 50,000 rupees in damages and costs. The other eight were freed. The six convicted appealed against their death sentences and Mukhtar Mai appealed against the release of the eight men.

In March 2005, five of the six convicted were acquitted by the Lahore High Court (LHC) and the sixth man was condemned to life imprisonment. The judgement issued by the LHC said that Mukhtar Mai's statement was not backed by sufficient evidence and there was a delay in reporting the crime to the police. A few days later, the Federal Shariat Court (FSC) intervened and purported to suspend the order of the Lahore High Court. The Supreme Court then declared that the action of the FSC was unconstitutional and suspended the orders of both the LHC and the FSC. At the time of drafting this report (Autumn 2007), Mukhtar Mai's case is now before the Supreme Court and their decision is pending.

The fact that this heinous crime was committed five years ago and the perpetrators in her case have still not been punished, is surely an indictment of Pakistan's failure to secure and uphold women's dignity and human rights. This case is an example of how cases of rape and those cases involving the Hudood Ordinances, honour killings and domestic violence are adjudicated under parallel laws and tribal practices and how women are denied protection under the legal and justice systems. In fact

¹¹⁵ Human Rights Commission of Pakistan, *State of Human Rights*, 2005, p.182.

Mukhtar Mai's case illustrates perfectly how ineffectual the principles enshrined in the Constitution are. It further highlights how, depending on the urban-rural divide, women can benefit from very different (if any) levels of protection.

In terms of this study, it is the inconsistency in the laws and its application across Pakistan that makes the issue of 'flight' so significant. The wider implications for women who may want to flee to another area raise questions about the level of protection available to women when re-locating to a different region of Pakistan. Such relocations typically take the form of flight from rural to urban areas, and are also associated with women living in extreme poverty and destitution.

Case study: Dr. Shazia Khalid

Dr. Shazia Khalid, an employee of the Pakistan Petroleum Limited (PPL) in Sui, Balochistan, was raped in her bedroom on the 2nd January 2005. Dr. Shazia was unable to identify the rapist and at the time of the incident, in accordance with the Pakistani legal requirement to prove rape, she was required to produce four Muslim men who had witnessed the crime. The rape took place within the secure hospital precinct, allegedly by an army officer. In February 2005, a tribal Jirga concluded that Dr. Shazia's rape had dishonoured the tribe and she should be murdered. Dr Shazia Khalid added:

'the worst of it was, my husband's own grandfather announced that I was a kari, a stain on the family. He said that my husband should divorce me, and that I should be expelled from the family. I was afraid of being killed!' (Mai, 2006, p.125).

The rape provoked riots in Balochistan and the Pakistani army suppressed a large-scale tribal uprising. The Balochistani national leaders claimed that frontier corps personnel had committed the crime and accused the government of a cover up.

The Pakistani authorities advised her to leave the country and not to contact any of any human rights organisations. She was asked to sign a declaration saying that she had received assistance from the authorities, and had decided to take the matter no further. She was threatened that if she did not sign it, she and her husband would probably be killed. She is now in exile in the UK while her only son remains in Pakistan.

A key factor of significance in this case is that the Pakistani government did not feel able to protect Dr. Shazia. This demonstrates the very real power differential between government and tribal justice systems. Dr. Shazia is still waiting for justice from the government of Pakistan.

4.5 Legal context impacting on women

Alice Bettencourt, from the Human Rights Advocacy Clinic in her litigation report (Spring 2000) on 'Violence Against Women in Pakistan' writes:

*"Women in Pakistan live in a world structured around strict religious, family and tribal customs that essentially force them to live in submission and overall fear. In a nation where Islamic law dictates traditional family values and is enmeshed in the legal system, Pakistan's government, law and society discriminate against women and condone gender-based violence. Though Pakistan ratified the United Nation's Convention on the Elimination of Discrimination Against Women in 1996, (herein after referred to as the Women's Convention), it has failed to bring in new laws and to enforce existing laws that protect women from discrimination and violence. Pakistan has yet to integrate many of the Women's Convention's provisions into domestic law and to raise the awareness of the general public of it's (i.e. state's) responsibilities under international law to promote women's rights. Due to these failures, women's rights in Pakistan are deteriorating."*¹¹⁶

In examining the legal context that impacts on women fleeing domestic violence, it is necessary to begin with the Hudood Ordinances. These ordinances illustrate the conflict between religious and civil laws, and provide a significant indication of the position of women in Pakistani society. Furthermore, when considering laws concerning women, for example around divorce, it is important to keep the Hudood Ordinances in mind as these impact on how family laws might be interpreted, and highlight the tensions between law, policy and practice.

¹¹⁶ Bettencourt, A, *Violence Against Women In Pakistan*, Human Rights Advocacy Clinic, 2000, accessed at: <http://www.du.edu/intl/humanrights/violencepkstn.pdf>, last accessed 19/11/07.

4.5.1 The hudood ordinances

General Zia ul Haq came to power through a military coup in 1977. Under the pretext of 'Islamisation' he introduced the Hudood Ordinances (HO) in 1979. This campaign to Islamise society focused particularly on women, their dress, behaviour and legal status. This change occurred because the religious right in Pakistan had gained a foothold in the state. Since their introduction the Ordinances have widened the category of criminal sexual activity (the implications of this will be examined later). In addition, a woman's testimony is considered half that of a man's and there is widespread agreement that rather than promoting justice, the Ordinances constitute "an instrument of oppression against women"¹¹⁷.

The Hudood Ordinances 1979 consist of several ordinances including:

- The Offences Against Property (Enforcement of Hudood) Ordinance deals with the crimes of theft and armed robbery.
- The Offence of Zina (Enforcement of Hudood) Ordinance deals with offences of rape, abduction, adultery and fornication. This is only considered under the Shariat laws.
- The Offence of Qazf (Enforcement of Hadd) relates to a false accusation of Zina (adultery and fornication)
- The Prohibition (Enforcement of Hadd) deals with the manufacture, possession and use of intoxicants (alcohol and narcotics).

The ordinances recommend two forms of punishment. Firstly, Hadd (limit) is defined as punishment ordained by the Holy Quran or Sunnah (sayings of the prophet Muhammad). Secondly Tazir (to punish) includes any punishment other than Hadd. Hadd punishments are fixed. The judge has no discretion or flexibility when dealing with them. Tazir is given when the offence is considered proved, but does not fulfil all the requirements relating to the imposition of Hadd.

Requirements for the imposition of Hadd:

- The accused must be an adult
- The accused must confess to the crime or there must be eyewitnesses to the crime
- Two eyewitnesses are required for all crimes, except in the cases of Zina (adultery or fornication) and Zina-bil-jabr (rape), where four eye witnesses are required.
- The witnesses must be adult Muslim men. The testimony of Muslim women or non-Muslim men and women is not accepted against a Muslim accused. However, witnesses can also be non-Muslims (men and women) if the accused is a not a Muslim

Table 5: Examples of Hadd punishments are:

Offence	Punishment
ZINA by adult married Muslim	Stoning to Death
ZINA by adult non Muslim or adult single Muslim	100 Lashes
RAPE by adult married Muslim	Stoning to Death
RAPE by adult non-Muslim or adult single Muslim	100 Lashes plus any other punishment including death
Drinking of intoxicating liquor by adult Muslim	80 Lashes
Theft from an enclosed space of goods of more than a specified value	Amputation of the Right Hand (1st offence) Amputation of the Left Foot (2nd Offence), etc

¹¹⁷ National Commission on the Status of Women (NCSW), *Report on Hudood Ordinances 1979*, 2003. There is some disagreement on this view, particularly by some Islamic scholars who argue that the injustices against women have been exaggerated.

There has been opposition from Pakistani based Civil Society organisations, particularly women's and human rights groups, along with individual activists, political groups and several prominent jurists who have called for the repeal of the Ordinances. International pressure has added to these local campaigns. The Commission of Inquiry for Women, headed by a serving Supreme Court Justice recommended repeal in 1997. In 2003, the National Commission on the Status of Women (NCSW), a statutory body, called for their repeal. The Ministry of Religious Affairs referred the legislation to The Council of Islamic Ideology who having recommended the implementation of these ordinances in 1979, acknowledged that certain clauses are in conflict with the spirit of Islam¹¹⁸.

General Zia introduced the Hudood Ordinances without any legislative bill being laid before the National Assembly or Senate. Opponents highlight the lack of due process in enactment and enforcement as fundamentally undermining the Ordinances legitimacy (Women Aid Trust, 2005). Counter arguments (among others, from the Women Aid Trust – a Pakistan based Islamic women's organisation) claim that this initial lack of democratic process has been rendered irrelevant by the National Assembly's adoption of the Ordinances in 1985, and, that the 'implicit' ratification by subsequent Assemblies has 'continued with the laws (Justice and Iqbal, 2006). However, since General Zia set the condition that the Constitution and democracy would be restored only if the laws promulgated by him were given legal cover, it appears that a 'trade-off' replaced proper constitutional procedure.

While the Hudood Ordinances have a wide remit, this study focuses on the Zina (adultery) Ordinance, which criminalizes rape, adultery and fornication and has redefined how such cases are handled by the legal system. The Zina Ordinance is recognised as having had 'a profound effect on the rights of women'.¹¹⁹ We examine the two ordinances (adultery and rape) and the use of these against women. We will also briefly examine the Qazf ordinance.

4.5.1.1 Offence of Zina (enforcement of hadd) ordinance 1979

This Ordinance covers Zina (fornication and adultery); Zina-bil-jabr (rape), kidnapping, abducting or inducing a woman to have illicit sex or compelling her to marry against her will; enticement or detaining a woman with criminal intent; selling or buying a person for purposes of prostitution.

Under this Ordinance, for the first time in Pakistan's history, fornication (non-marital sex) has become illegal and, along with adultery, is non-compoundable¹²⁰, non-bailable and punishable by the maximum sentence of death. The offence of rape, which had previously been part of the Pakistan Penal Code, is now included in the Ordinance. Significantly, marital rape and statutory rape (previously defined as sex with or without consent of a girl under the age of 14) are no longer crimes.

A key element widely identified as leading to injustice against women is the inclusion of both Zina (adultery) and Zina-bil-jabr (rape) within the same category. In practice, this has led to many women who had been raped, to then be accused of Zina (adultery). An example of this is the Dr. Shazia's case. An overview of decided cases reveals that it has become almost impossible for a woman to prove a case of Zina-bil-jabr (rape), since the evidence required for Hadd punishment is the eye-witness account of four adult, male, Muslims with good morals (Justice and Iqbal, 2006). It is unlikely that a man would choose to rape a woman before four such witnesses, or that these witnesses would not try to prevent the rape but would then testify against the rapist.

According to the Zina Ordinance, the definition of adulthood for women is the age of 16 or attainment of puberty (for men it is age 18 or attainment of puberty). This means that once a girl has reached puberty, however young she might be, she can be charged with engaging in illicit sex. Furthermore, since she is regarded as an adult after puberty, it is also not regarded as a crime for a husband to have sex with her as a child-wife.

¹¹⁸ The NCSW was established in 2000 to review all laws and policies affecting women and to make recommendations to eliminate discrimination. The NCSW Special Committee that reviewed the Hudood ordinances included ex-judges of the Supreme Court, High Courts and Federal Shariat Court, religious scholars, representatives of the religious minorities, lawyers and the Chairman of the Council of Islamic Ideology.

¹¹⁹ See Human Rights Watch, Section VI. *The State Response to Violence Against Women* at: <http://www.hrw.org/reports/1999/pakistan/Pakhtml-06.htm>, accessed 17/11/07.

¹²⁰ A non-compoundable offence is one which the police or government may continue to investigate and prosecute even if the original complainant withdraws his or her statement implicating the accused.

In this context, women attempting to seek justice for sexual violence are thus in an impossible situation in that if they report a rape they are unable to produce the required number of witnesses. They then risk being accused of Zina because their testimony itself acknowledges that intercourse took place. Yet women who do not report a rape, and go on to become pregnant, risk being charged with Zina. There have been cases where courts have converted a rape conviction to one of fornication, on the grounds that the woman had no visible signs of injury and hence was deemed to be a willing party¹²¹. While the courts have generally required rape charges to be proven beyond reasonable doubt, they would often accept a woman's failure to prove an allegation of rape as *prima facie* evidence of her participation in illicit consensual sex. However more recently, a number of courts have explicitly stated that this should not be the case¹²².

4.5.1.2 Zina (adultery) – a crime against the state

The Hudood Laws have made a sexual relationship outside marriage a crime against the state. Hence a woman attending court after registering a case of rape, may be punished by the court for Zina, should rape not be proven. It has been highlighted that whilst adultery has been made a public matter, the murder of women may be treated as a private matter, since a murderer can escape punishment by being 'forgiven' by a woman's family and/or paying them compensation¹²³. It would appear that controlling women, and particularly their sexuality, is more of a state priority than preventing their murder.

Under the Hudood Ordinances, at least until the Amendments in December 2006, anyone could go to the police with a complaint against anybody else. There is widespread agreement, that the making of false allegations under the Zina Ordinance has been used to victimise women perceived to be defying the norms of society simply by exercising their legal or human rights. Women fleeing domestic violence are particularly vulnerable. Most cases are registered by parents whose daughters have married someone of their own choosing, or by former husbands on the remarriage of their previous wives. This view is supported by Khan who notes

"the women incarcerated under Zina-related charges are not there because of sex crimes but because their families or former husbands used the Zina laws to jail the women when they went against their families' wishes." (Khan, 2003, p.77).

Khan also draws attention to the class, as well as the gendered dynamics of the Hudood Ordinance. Since it is generally applied to poor working class women, Khan links this to the increasing emphasis in Pakistani society on women's sexual purity at a time of demoralisation and disaffection with national political accountability –

*"These (Hudood) Ordinances led to an increase in injustice against women and, in fact, became an instrument of oppression against women"*¹²⁴.

Since the commission of Zina is a non-bail-able offence, women implicated in such cases are not allowed bail by the lower courts. If a woman succeeds in getting bail from the High Court, only male relatives can give a surety bond for her release. Clearly, not only does this consolidate male power over women, also if her male relatives have been involved in getting her arrested in a false case, it is unlikely that they will facilitate her release.

This persistent misuse and injustice led the Federal Shariat Court to state:

"We are constrained to make observations that such reckless allegations are being brought so frequently that something should be done to stop this unhealthy practice. The prosecution agencies before putting people on trial for offences of Zina on flimsy allegations should be mindful of injunctions of the Holy Qur'an and the message conveyed through the decisions from the early period of pious Caliphs" (S.G.W.R.C, 2004, p.4).

¹²¹ See Human Rights Watch, Section VI. *The State Response to Violence Against Women* at: <http://www.hrw.org/reports/1999/pakistan/Pakhtml-06.htm>, accessed 17/11/07.

¹²² See Human Rights Watch, Section VI. *The State Response to Violence Against Women* at: <http://www.hrw.org/reports/1999/pakistan/Pakhtml-06.htm>, accessed 17/11/07.

¹²³ Under the Qisas (retribution) and Diyat (compensation) Ordinance, crimes of 'honour' can be pardoned by relatives of the victim and monetary compensation for female victims is assessed at half the rate of male victims.

¹²⁴ National Commission on the Status of Women (NCSW), *Report on the Hudood Ordinances 1979, 2003* can be accessed at: <http://www.wluml.org/english/newsfulltxt.shtml?cmd%5B157%5D=x-157-3260>, last accessed 19/11/07.

Ironically this concern was not based on the injustices to women but was actually about not bringing Sharia law into disrepute.

4.5.1.3 Action on false accusations of Zina (Qazf)

“The argument that every law can be misused may be correct to some extent. But, thus stated, it addresses the wrong question. The relevant test is not whether a piece of legislation can ever be misused but rather whether it is worth enacting at all given the potential for its abuse and the results which its enforcement would produce. This Commission is strongly of the opinion that the Zina Ordinance fails this test. Abundant data testifies that the result of this law has been the victimisation rather than the protection of people, and that the law has had a particularly adverse effect on the least privileged members of society.”¹²⁵

The law of Qazf (bearing false witness) provides that a person can be punished for making false allegations of Zina. In practice, despite a 95% acquittal rate in Zina cases, with all the potential for the bearing of false witness, prosecution for Qazf is less than 1% of the number of Zina cases (S.G.W.R.C., 2004). Few women have the resources to institute Qazf proceedings and its use is limited since a husband cannot be punished on allegations of Qazf.

4.5.1.4 Implications for non-Muslims

The testimony of non-Muslims is regarded as acceptable in the prosecution of non-Muslims only, but not in the prosecution of Muslim men in cases where Hadd can be imposed. The testimony of women in Hadd cases is unacceptable. Hence, a Muslim man who rapes a Muslim woman in the presence of other Muslim women, or who rapes a Christian woman in the presence of male or female Christians cannot be given Hadd punishment based on the witnesses' testimony. (see sec. 4.5.5)

4.5.1.5 Implications of the hudood ordinances for women from poor working class backgrounds

It is largely poor women, unaware of their legal rights and with no one to advocate on their behalf, who have suffered most under the Zina Ordinance. As Khan has pointed out:

“Zina laws are unevenly exercised, and the most vulnerable members of society – impoverished and illiterate women – are the most affected” (Khan, 2003, p.77).

Similarly, one of our participants, a resident at a women's shelter in Lahore (2006), poignantly noted:

“We are in the 21st century but in our society, a woman is still destined to be stoned to death. It is said that the world has become a global village, I am unable to understand the global village’.

While conducting fieldwork in Pakistan, press coverage of campaigns against the Hudood Ordinance also paid considerable attention to the women imprisoned, often without being convicted, for Hudood offences. These women often faced long delays in cases being heard and were in custody for unacceptably long periods of time¹²⁶. The National Commission on the Status of Women identified that ‘80% of the women languishing in our jails are there as a result of the ambiguous legislation of the Hudood Ordinance¹²⁷.’

4.5.1.6 Wider effects on all Pakistani women

The operation of the Hudood Ordinances not only means that hundreds of women are wrongly held in jail, and that women who have been raped have little recourse to justice, but also that the ever-present threat of these Ordinance acts as a powerful means of control over women. Cases reported in the press and by Human Rights and women's organisations highlighted the day-to-day impact on women's lives:

Our fieldwork generated first hand accounts of such issues. The director of a Peshawar NGO recalled:

“There was a woman who married out of choice. Her family said that she had run away with a boy, did an FIR [First Information Report, discussed in Chapter 5] against her and she was put in jail. She

¹²⁵ Pakistan: COI Report, Home Office, London, 1997 p.70.

¹²⁶ Pakistan's Chief Justice Iftikhar Muhammed Chaudhry directed courts to dispose of all Hudood cases within 90 days following a finding by a Commission that he chaired that trials of women charged with Zina offences had been 'inordinately delayed'. (*CJ wants early disposal of cases*; Daily Times Islamabad, 18/07/06).

¹²⁷ National Commission on the Status of Women (NCSW), *Report on the Hudood Ordinances 1979*, 2003.

was helped to do a case, but when she came out, where would she go? She came out and the family murdered her."

The director of a well known nationally based NGO, in his interview, reported another example arising from their organisation's work:

"In Multan, a woman took refuge in her sister's house after escaping from her husband's torture and filed a suit for dissolution of marriage. The husband registered a report (FIR) on the basis that this woman was committing Zina with her sister's husband. He used his influence with the police in order to fabricate a charge of Zina. As a consequence his wife and her brother-in-law were both arrested. The arrested woman's sister and other relatives protested in the police station that it was a false case, but the police did not release them. At last they were released on bail under my orders after spending two weeks in jail."

Alongside substantial evidence that the Hudood Ordinances were being used as a means of controlling and victimising women, feedback from women's rights activists highlighted the extent to which these Ordinances hamper the efforts of organisations and individuals to support women seeking protection and justice. The coordinator of a very well known women's NGO in Islamabad discussed in her interview how she herself was charged:

"I was booked under Hudood laws for abetting a woman to commit adultery when I offered support to her to get a divorce, even though a Judge had allowed her to escape from his court and she came to our shelter. It took 3 years to fight this case. I was terrified as the sentence would have been 30 years. This was one reason why I had to close the shelter as I was facing threats at least 10 times a day. Instead of getting protection I was facing all the problems."

4.5.1.7 Progress towards amendments/repeal

As a result of extensive campaigning a Law Reforms Ordinance 2006, introduced by President Musharraf in July 2006, amended the Code of Criminal Procedure allowing the courts the power to grant bail to all women detained on charges, other than for terrorism, murder and financial corruption. Amendments were also made to section 497 of the Pakistan Penal Code that makes all offences committed by women bail-able, with the exception of special cases.

It was estimated that about 1300 women of the 6500 in jail would benefit. Most of these were detained under the Hudood Ordinances. The Minister for Women's Development and Youth Affairs, Sumaira Malik, stated: *'All women incarcerated because of controversial and discriminatory laws will now be legally empowered with this legislation'* and added that *'Any legislation which infringes upon the rights of women should be repealed'*¹²⁸. It was unclear whether the Ordinance applied to jails in the Provincial Administered Tribal Areas (PATA) of NWFP¹²⁹.

Concerns were raised that many women would be disqualified from release, as they needed to provide a financial surety and be accompanied by a male family member. The release of women in the period after the Bail Ordinance was reported extensively in the Pakistani press, which highlighted the widespread concerns about where they would go, and the extent to which they would be accepted back into Pakistani society. Whilst government ministers stated that women would be given accommodation and support within shelters, the findings from the present study suggest current resources for this are minimal.

4.5.1.8 Suggested amendments to the Hudood Ordinances

In response to intense pressure from both within the country and outside, Pakistan's National Assembly proposed changes to the Hudood Laws in August 2006 and aimed to seek approval through Parliament for these. Amendments drafted by the Council of Islamic Ideology (CII) included a proposal to remove the crime of rape from the Hudood Ordinances and incorporate it back into the Pakistan Penal Code (PPC). Human Rights Watch deemed the proposed changes *'grossly inadequate'*¹³⁰. A Bill

¹²⁸ *Legal Reforms Ordinance 2006 - Law useless if women can't pay surety: jurist and landmark law brings relief to jailed women*, The News, Islamabad, 09/07/06.

¹²⁹ The News, *ibid*.

¹³⁰ Brad Adams, Asia Director of Human Rights Watch. HRW website can be accessed at: <http://hrw.org/english/docs/2006/09/06/pakist14124.htm>.

proposing the changes was deferred from going before Parliament when the Muttahida Majli-i-Amal (MMA), which is a 6-party alliance of religious groups) threatened to withdraw from the National Assembly and Provincial governments, if the government continued with the Bill.

The MMA called for the reconstitution of the CII to include 'Muslim scholars belonging to all schools of thought'¹³¹ and launched a countrywide campaign to protect the Hudood Ordinance¹³², saying that the Bill was contrary to Islam for seeking to change punishments for Zina (rape and adultery) and Qazf (false allegation of Zina). They criticised opponents of Hudood as being secular elements working to a foreign agenda. The MMA deputy parliamentary leader Hafiz Hussain Ahmed described the Bill as a 'present' President wanted to take to the United States¹³³.

Those calling for repeal argued that the Ordinance is actually contrary to Islamic teachings and the Constitution. They also argued that the government was amending the laws in order to create the impression globally of promoting women's equality, without a genuine intention of doing so¹³⁴. The arguments about amending the Hudood Ordinances reflect a wider debate in Pakistan between 'liberals' and 'traditionalists' (the latter being those who regard anyone suggesting such changes as being an agent of the West and of the agenda imposed by the United States post 9/11).

The Pakistan government has delayed progressing amendments to the Ordinances, stating that it seeks to reach a consensus. Although a large range of Civil Society organisations, prominent jurists and government Commissions demand repeal, the government and CII and other influential voices, including the MMA, propose reform that at most, simply countenances changes to implementation.

The Women's Protection Act was introduced on 1st December 2006. In this report we focus only on amendments related to Zina, Zina-bil-jabar (rape) Qazf and the enforcement of Hadd. The amendments still include the Hadd punishments to all offences including rape, adultery, theft, wrongful accusation and robbery. Rape has been moved from the Hudood Ordinance and moved back into the Pakistan Penal Code. This means that the condition of providing four male witnesses is no longer required in the case of rape. In the case of Zina the tazir punishment could also be given.

In terms of cases of 'repentance', this has been given legal validity and the person will not be liable to a Hadd punishment. The laws concerning Zina and Qazf will be combined as one ordinance. Section 17 of the Zina Ordinance, concerning the mode of execution of the punishment of stoning to death, would be amended to whipping and it includes suggestions of the materials of which the whip should be made.

The Act will delete Section 10 of the Zina Ordinance, so that a person accusing another of Zina without proof, would automatically be charged with Qazf.

These amendments have been introduced because of strong opposition from the religious extremists. They have not met the demands of the human rights and women's activists who have demanded the complete repeal of the Hudood ordinances.

It will be some time before anyone knows to what extent these amendments will protect the civil liberties of women.

4.5.2 Family law: marriage, divorce, child custody, maintenance and inheritance.

Some key features of Family Law in Pakistan need to be outlined in order to understand the position of women.

4.5.2.1 Marriage

The Muslim Family Law Ordinance 1961 introduced compulsory registration of all marriages and divorces and standardised the Nikah nama (marriage certificate).

4.5.2.2 Divorce

A man can divorce his wife by pronouncing talaq (Divorce) three times. There are variations between the different Muslim sects as to the method of pronouncing talaq. The husband has to submit a

¹³¹ Clerics say no to Hudood changes, demand new CII, Daily Times, 07/07/06.

¹³² MMA will defend Hudood Ordinance, Daily Times, 14/07/06.

¹³³ MMA will defend Hudood Ordinance, Daily Times, 14/07/06

¹³⁴ MMA will defend Hudood Ordinance, Daily Times, 14/07/06

notice to the chairman of the arbitration council. If no reconciliation takes place within 90 days, the divorce becomes final. Women do not have a similar right and have to apply to the court for a suit for dissolution of marriage¹³⁵.

Talaq-e-tafwiz

This defined as ‘the delegated right of divorce’ and is permission given by the husband to his wife to divorce him. This right is stated in column 18 of the *Nikah Nama*, but it is often struck out because families consider it to be a bad omen to discuss the possibility of divorce at the time of marriage. Permission can be given by the husband subsequent to the marriage ceremony, but rarely is.

Khula

Where permission has not been granted by the husband, his wife can still apply for divorce. She can apply for *Khula* on the basis that she has irreconcilable differences with her husband and can no longer live with him. The wife has to forego her Huq Mehar (dower) and return benefits she has received from her husband at the time of marriage. Under this procedure a woman has no entitlement to any monetary or other benefits, if she divorces her husband. (The practicability of return of the dower may be a further barrier to her instituting *Khula* proceedings). The dissolution of the marriage does not become effective until after a ninety-day period.

4.5.2.3 Maintenance

It is considered to be the legal duty of the husband to maintain his wife. If during the marriage, the husband does not maintain his wife properly, she can complain to the chairman of her relevant union council/committee. The chairman can order a decree for the past and future maintenance of the wife. If the husband still fails to pay maintenance, the wife can file a case in court for recovery of the maintenance.

A divorced woman can also file for the recovery of her past maintenance allowance in court only for the period of ‘iddat’¹³⁶, which is three months and begins from the date the divorce becomes effective. The limitation for filing a maintenance case is six years after the dissolution of marriage.

In reality, given the fact that women are overrepresented in both the poverty and illiteracy statistics, they often do not have the knowledge or support to ensure that men are accountable for their maintenance. Moreover, in rural areas, particularly where the Tribal Justice system operates, a breakdown in marriage is seen as failure on the part of the woman and her family, and is looked upon as dishonourable as it is considered the family honour is compromised. In reality for many women who are poor and illiterate, divorce is not a solution. For women experiencing domestic violence will consider flight as their only option.

In practice, there are problems enforcing maintenance orders due to:

- Delays in obtaining decrees resulting in accrual of unpaid monies making it difficult for the husband to pay and leading him to evade responsibility
- The husband not having regular income
- Delay in service of Notice of Execution
- Male bias in the legal system
- The court having no power to stop the husband disposing of the property
- Appeals taking a long time to be decided

Like the Constitution, the provisions around divorce and settlement remain on the statute book and often do not reflect the reality of women’s experiences. The key issue lies in their enforcement and the inability of the government to ensure the letter of the law is abided by.

At a focus group conducted with residents at a shelter in Lahore, there was a unanimous claim amongst the women that ‘there is no justice for women in Pakistan’.

¹³⁵ This is known as ‘*Khula*’ – the dissolution of marriage by a woman

¹³⁶ Iddat – Under Muslim Law a divorcee has to wait for a period of three months before re-marrying

4.5.2.4 Inheritance laws

Inheritance in Pakistan is governed by Islamic *Shariah* as codified in the MFLO, 1961 and the West Pakistan Muslim Personal Law (Shariat) Application Act (V 62) that consolidated and amended the various Muslim Laws. Inheritance laws for non Muslims are considered under their own personal laws, relating to their religion.

In Pakistan women are often manipulated out of their inheritance because they are made to forfeit their share in favour of a brother or son. Several of the women we interviewed for this study claimed they were unable to pursue their inheritance in court, because of threats of murder from family members.

4.5.2.5 Child/custody issues

Pakistani law considers the welfare of the child to be a guiding principle in deciding custody and guardianship issues. Religious laws relating to custody and guardianship do not overrule the welfare principle, but it is assumed that they play an important part in the courts decision making.

A minor is anyone under 18. A court which has assumed guardianship of a minor will terminate the arrangement when the minor reaches 21.

There is an assumption in Islamic law that a Sunni girl remains in her mother's custody until puberty (presumed age 15) or even until marriage. For a Sunni male child, the presumption is that he stays with his mother until aged seven. A Shia boy is presumed to be in his mother's custody until aged two and a girl until seven. These are only presumptions and are subject to the welfare of the child. The principle will be applied only if the court considers that the welfare of the child will be served equally by either parent.

The guardianship of a minor always belongs to the father (unless contested). This means in practice, the father is obliged to pay for their child's expenses and in return, has the right to decide on the child's education and other aspects of his/her upbringing. As a consequence, both custodial and non custodial mothers do not have an equal say in bringing up their children. Thus if a mother lives abroad, the courts will be reluctant to allow her to take the children with her, if this means the father cannot exercise control and supervision. The same principle does not apply to a father who lives abroad.

This has significance for women with children fleeing domestic violence as the father's guardianship role can impede the ability to find a safe place to live. It is not uncommon for the guardianship laws to be used not only to prevent women from flight, but also as a tool to trace women who are in flight.

4.5.2.6 Laws applicable to Christians

Custody and guardianship are determined in accordance with the Guardian and Wards Act taking into account the Personal Laws of the Minor with welfare of the minor a significant factor.

The father is automatically granted guardianship of a child's property. In the absence of the father, the mother has to apply for a guardianship certificate.

4.5.3 Swara

As already noted, *Swara* is a custom widely followed to end blood feuds amongst the different tribes. 'Swara', known as 'blood money', is the giving of young girls, who often have no choice in the matter, as compensation for 'murder' or 'honour'. If the family of the girl agrees to pay money, called *diyat*, the handing over of the girl can be avoided. *Swara* is the term used in NWFP, but in the Punjab it is known as *Vani*.

Girls are handed over as commodities without any consideration for their welfare. Their wellbeing is sacrificed, whilst perpetrators of the crime escape punishment.

Ali (2001) describes the situation graphically as below:

"The reality of woman as a piece of property, a commodity, is reflected in the ways in which society continues to dispose of her body. She can be offered as compensation for damage to life and property. Thus she can be given as khoon-baha or blood money to compensate for murder..... The custom of watta satta is yet another marriage transaction in which a man can acquire a wife by offering a woman that belongs to him – a daughter or a sister in exchange. Such an exchange can

also link the fate of one woman to the fate of the other; thus if one is divorced or killed, the other is likely to suffer the same fate in retaliation.” (Ali, 2001, p.22)

Swara is used in the hope of establishing peace or resolving disputes between aggrieved and aggressor. In cases where young girls are given in marriage, it is assumed the hostility between the two parties will end. If it does not, it means that the young girl will have to suffer for the rest of her life.

The UN Convention on the Rights of the Children (1989) (CRC), article 2 (2) states:

‘...parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians or family members....’

The Jirgas rely on these customary practices as an acceptable method of ending feuds. More often than not, the family is too poor to pay compensation, and therefore have no option but to hand over their daughter.

This practice reinforces the view that women are treated as commodities in these areas.

“The father of Amna Niazi recently challenged the decision taken by the Jirga in 1996 regarding his daughter now aged 22, her two sisters and two cousins. The children were aged between six and thirteen. Amna’s uncle had shot a man, and the Jirga had ordered that the five girls be handed over as ‘Vani’. When the father refused to comply, the Jirga ordered that they be abducted, raped or killed. The father has since paid the blood money and refused to hand over his daughters.”¹³⁷

It is difficult to determine how many girls have been ‘given away’ as a result of this practice, as statistics are not available to quantify the extent of the abuse. Cases are only exposed when they are exposed to the public eye. It is unlikely that the majority of the cases from rural areas ever go to court, as decisions taken by the Jirgas are regarded locally as an acceptable method of resolving disputes.

4.5.4 Honour killing

“The government of Pakistan vigorously condemns the practice of so-called honour killings. Such acts do not find a place in our religion or law. Killing in the name of honour is murder and will be treated as such.”¹³⁸

‘Honour Killing’ is a term used when a woman is accused of ‘dishonouring’ the family by having allegedly committed an immoral, sexual or other inappropriate act.

Killings in the name of ‘honour’ are considered a legitimate defence to murder. The following are examples of conduct which are considered by families as inappropriate:

- A woman committing adultery or suspected of committing adultery
- A woman exercising her right to marry a man of her choice
- A woman seeking divorce without the consent of her family
- A woman seen speaking to a man who is not a member of her family
- A woman who has been raped but who has either not been believed or whose family consider she was to blame for the assault.
- A woman’s family believe they have been ‘dishonoured’ in some way or form.

Under tribal justice law, ‘Honour Killing’ is looked on as a legitimate means to avenge the violation of honour.

The killing of a woman is ordered and carried out predominantly by male members of a family. It is intended to erase the shame of and restore honour to that family. According to the custom of honour, the husband, father and possibly brother and son are deemed sufficiently closely related to be

¹³⁷ See www.boloji.com/wfs5/wfs649.htm Samar Minallah – Anthropologist and Executive Director of the NGO Ethnomedia and Development, 30/7/06 quoted by arrangement with women’s feature service

¹³⁸ General Pervez Musharraf, President of Pakistan April 2000, accessed at: <http://web.amnesty.org/library/Index/engASA330102002?OpenDocument>, last accessed, 15/11/07.

aggrieved by the act of dishonour. Other relatives and non relatives would not have justification to kill, unless authorised to do so by the Jirga. Commentators agree that honour killing is pre-Islamic and not supported by Islam (Patel, 2003).

In the interior Sindh, honour killings are referred to as 'Karo Kari' (Karo means black man, Kari means black woman). In the Punjab they are called 'Kala Kali', In the NWFP 'Tor Tora' and in Balochistan 'Siyah Kari'. They all refer to the man and woman as 'Black', equating this with being bad and evil.

4.5.4.1 Legal response to honour killings

Under state law Honour Killing is a crime, but in the vast majority of cases the fact that the murder is purportedly carried out in the name of honour, serves to mitigate the severity of the punishment. The perpetrator is either acquitted or receives a reduced sentence.

The Pakistan Penal Code (PPC) used to provide that the killing of a person due to 'grave and sudden provocation' was culpable homicide but not murder as such. Honour Killings come into this category.

In 1991 the Criminal Law (Fourth Amendment) Qisas (life for a life) and Diyat (compensation) Ordinance amended the PPC by abolishing provisions relating to the defence of grave and sudden provocation. Intentionally causing death (Qatl-i-Amd) was to be punished by:

- (1) Qisas (punishment causing similar hurt or death – retaliation)
- (2) Tazir (death or imprisonment for life) or
- (3) Prison for up to 25 years.

However Qatl-i-AMD is not liable to qisas where the *wali* (heir) of the victim is the child or grandchild of the offender. Thus where a husband murders his wife, as their child is the wali, the offender would not therefore be liable to the death penalty.

An adult male wali has the right to waive qisas. Where there is more than one wali, then any one of them may waive the right to qisas. In cases where the offender cannot be punished by death as qisas, the offender is liable to diyat. Where diyat has been agreed and paid, the courts still retain the power to punish the offender by sentencing him to up to 14 years imprisonment on tazir, but this rarely happens where the parties have settled the matter.

An adult wali also has the right of badal-i-sulh (a mutually agreed compensation in cash or kind). This can include the acceptance of an offer of a female in marriage.

The above-mentioned changes to the PPC have made it possible to compound (forbear from prosecuting) the offence of murder and have exempted some murderers from the death penalty. These changes have in effect made incidences of honour killings even more prevalent.

"To date there is not a single case of death penalty being awarded in cases of Honour Killing and several cases go unreported, are not prosecuted or dismissed for lack of evidence" (Patel, 2003, p.152).

At a conference of police officials in 2001, it was recommended that the Qisas and Diyat Ordinance should be reviewed to prevent compounding of offences in the cases of Honour Killings.

"Post mortem exemption must not be granted in the Honour Killing cases. Investigation officers must be given 'in service' training so as to distinguish between pre-planned murders and Honour Killings"¹³⁹

Although the exemption of "grave and sudden provocation" was removed from S302 of the PPC, the defence has subsequently been allowed in a number of court judgements e.g. Abdul Nabi v the state [1997] SD 115, p.169-70)

Muhammad Faisal v the State 1997 MLD 2527, pg 171-172.

Prima Facie, it appears that the deed was done by Muhammad Faisal, petitioner, in a fit of rage when he lost control over his senses under sudden and grave provocation.

"The question is whether the plea of grave and sudden provocation is still available or not. The

¹³⁹ Review of Qisas Ordinance Suggested', Dawn, Peshawar newspaper, 25/5/2001.

answer is to be found in the Quranic injunctions contained in verse 34 of Surah Nisa ordaining that 'Men are in charge of women'. A husband, father, and the brothers are supposed to guard the life and honour of the females, who are inmates of the house and when anyone of them finds a trespasser committing Zina with a woman of his family, then murder by him whilst deprived of self control will not amount to qatl-l-amd liable to qisas because the deceased in such a case is not a masoom-ud-dam (innocent)." (Patel, 2003, p.171)

Statistics recorded by the Police Gender Crime Cell in Karachi for the province of Sindh show that from 1993-2004 a total of 432 cases were registered.

Unpublished figures from Sindh police show the following for the period 1980-2000.

"1,998 women were reported killed. Of these, 1099 wives were killed by their husbands, 56 daughters were killed by their fathers, 189 sisters were killed by their brothers, thirty mothers were killed by their sons, 612 women were killed by distant relatives, and twelve women were killed by non relatives" Patel further added *"the number of women victims has doubled from 1980-2000."* (Patel, 2003, p.173)

"This increase of cases of Karo Kari [Honour Killing] points to the mounting discrimination against women, the growing double standards for assigning blame and punishment on women and the difficulty for women to flee to avoid being killed." (Patel, 2003, p.173)

Honour Killings do not get pursued because:

- The state as prosecutor does not pursue investigations and prosecutions diligently.
- There is often little co-operation from families of the victim.
- The family rarely considers Honour Killing to be a crime.

As a consequence of this, not all incidences of Honour Killing are reported to the police. Another factor of course is that the perpetrator is often the husband, father or brother and they are unlikely to be reported by their own family.

Perhaps the starkest example of how the laws and customs discriminate against women is in the burial rites, following the killing of a woman perceived or alleged to have committed an act of dishonour, and her co-transgressor. The funeral prayer is not allowed to be recited for the woman and she is buried in an unmarked grave, whilst the man is buried in the family graveyard and prayer is allowed for him.

Shah (2002) also makes the point that men have greater mobility and resources, which allows them to escape the revenge of family or community by physically running away. Women are rarely able to exercise that option and when they do, they are pursued more arduously than men by male relatives who are determined to avenge their sense of 'honour' even if they have to cross international borders to do so.

4.5.4.2 Case study: Samia Sarwar – a question of justice?

The following example documented widely in the press is, unfortunately, indicative of what is discussed above.

Samia was from Peshawar married with two children. She sought refuge in a shelter in Lahore after a decade of violence from her husband. She had instructed her lawyer to initiate divorce proceedings when she was tracked down and murdered in the presence of her lawyer.

She was 29 years old when she was shot dead in her lawyer's office in Lahore on 6th April 1999. Her parents had planned her murder because they alleged she had dishonoured them by seeking a divorce. Her mother requested a meeting with her at the lawyer's office. She was accompanied in the office by Samia's uncle and their driver. The father, also an accomplice, was waiting in the car outside the office. As Samia stood up to meet her mother the driver shot her at point blank. Although the perpetrators could easily be identified no one was arrested. *'Tradition decrees only one method to restore honour – to kill the offending woman.'*¹⁴⁰

¹⁴⁰ Amnesty International News, Sept 1999, Vol 29, no.5.

This case raises the key question of how safe women really are when relocating from one region to another in Pakistan, and what safety mechanisms are available to those fleeing violence.

In the Samia Sarwar case, a woman was murdered in the offices of her lawyer, a place which offers women protection, legal representation and support. Moreover, instead of the perpetrators being punished, several religious organisations supported the father and 'declared her killing was in line with tribal laws'. They also demanded that the two human rights lawyers, be punished in accordance with 'tribal and Islamic law' for 'misleading women in Pakistan and contributing to the country's bad image abroad.' The ulema¹⁴¹ issued fatwas¹⁴² (religious edicts) against the two women declaring them Kafirs¹⁴³ who deserved to be killed' (Ali, 2001, p.33).

In this case, all the right steps were taken to pursue some justice for her – challenging the domestic violence and seeking legal protection and support from internationally acknowledged services. A (FIR) First Information Report (see section 5.5) was registered with the Police against her parents and the uncle. Arrest warrants for them were issued, but no arrests took place. The accused obtained bail and they filed a counter claim against the lawyers for abducting and murdering their daughter.

It is perhaps ironic to note that the police in this case are recorded as taking no action to protect the lawyers or the victims of these injustices. On the contrary, they are instead pursuing them as the 'criminals'. Furthermore, the perpetrators of this crime have never been punished. This case raises the question of the role played by the police and the judiciary in prosecuting and highlights the pervasive character of gender discrimination that is prevalent at every level.

4.6 Ethnocentrism, racism and discrimination

We will examine below how one particular minority group of women experience the different forms of persecution and discrimination in a country where the Muslims are in the majority.

4.6.1 Non Muslim women

As we have seen, non Muslim women are not just discriminated against in law but are also victims of religious ethnocentrism, racism and discrimination by the wider society. We focus specifically on the position of Christian women based on interviews conducted as part of the study.

During the fieldwork visits and interviews conducted with Christian NGOs, providers and service users expressed concern at the pervasive discrimination meted out by the state and the lack of intervention to protect them when they, or their communities, were faced with attack or siege after false allegations of blasphemy were made against them. The perpetrators of these allegations would usually be seeking revenge or the punishment of the individuals alleged to have committed blasphemy.

These women victims/survivors spoke about the discrimination by police in the implementation of registration of this kind of crime and the lack of police acknowledgement and protection for women who had been victims of serious sexual assaults. Furthermore, the women interviewed said they had encountered direct and indirect racism in the workplace or when seeking work, and were persecuted because of their Christian beliefs. The women were mostly employed as domestic servants in urban areas, and bonded labourers and brick kiln workers in the rural areas. They reported that they were often victims of physical and sexual violence and were paid poor wages. The Christian women interviewed claimed that minority communities are treated as second-class citizens. Although the Constitution of Pakistan decrees freedom from religious discrimination such practices prevail.

4.6.2 Linguistic barriers

In Pakistan, service providers do not, as a common practice use interpreters for women who are unable to communicate in the national or regional languages. Communication between the worker(s) and the women is often severely limited because of the language barrier. Women service users are, therefore, unable to fully access services including treatment from counsellors or psychologists. This is an issue

¹⁴¹ Ulema – religious scholar

¹⁴² Fatwas – religious edicts

¹⁴³ Kafir – infidels

particularly for women who have been trafficked and come from Bangladesh, Sri Lanka or Burma. The women who end up in shelters are usually isolated and, further, unable to communicate their experiences of physical or sexual violence.

4.6.3 State response

The Christian communities consulted as part of the study described the state's failure to respond to their reports of persecution based on their religion, including forced conversions. The government has, allegedly, failed to protect and introduce non discriminatory legislation or make any real changes to improve the rights of minority groups. The Hudood ordinance and blasphemy laws are examples of legislation which are discriminatory and used against minority groups (as well as women). Moreover, as State of Human Rights (2006) noted, although there are laws against bonded labour and trafficking of humans, these laws are hardly ever implemented and vulnerable sections of the communities are exposed to exploitation and persecution.

Religious intolerance and discrimination has continued to create wider divisions and hatred between the different communities. The Human Rights Monitor in its 2006 report on the religious minorities in Pakistan, described how the 'Zakat'¹⁴⁴ fund was used to set up dispensaries and vocational training institutes. Non-Muslims who tried to access these government run institutions were denied the facilities. A complaint was made to the government who referred the matter to the Council of Islamic Ideology (CII) to give an opinion of whether the Zakat funds could be used for non-Muslims. One of the committee members of CII shared his personal view on this matter and stated

*"It is not possible for the government to collect money from Muslims and spend it on the welfare of the minorities because it would not only be un-Islamic but would also be unjust to the poor Muslims of the state."*¹⁴⁵

This illustrates how state reinforcement of prevailing discrimination impacts upon the social and economic status of the Christian minority. This minority group is, thus, more vulnerable to human rights violations and the government colludes in the discriminatory practices against them.

4.6.4 Trafficking of women and children

*"Pakistan faced a significant internal trafficking problem reportedly involving thousands of women and children trafficked from rural areas and sold to settle debts and disputes or forced into sexual exploitation, forced labour or marriage. The sale of women in open markets, mainly in the NWFP, continued."*¹⁴⁶

Many sources indicate that Internal trafficking of women and children, particularly from rural areas in Pakistan, is an increasing problem. This trend was exacerbated by the Earthquake in October 2005 when displaced single women and children were targeted for trafficking because of their vulnerability and levels of poverty. In addition, Pakistan is dealing with increasing numbers of women trafficked from abroad. The United Nations Population Fund (UNPFA) in its annual report 2006 stated that Pakistan was a major country of destination for trafficked women and children as well as a transit point into the Middle East where children are used as camel jockeys. The US State Department, in its Trafficking in Persons report 2006 states that women and children from Bangladesh, India, and Afghanistan are trafficked to Pakistan for sexual exploitation and involuntary confinement. The Lawyers for Human Rights and Legal Aid in their report on Trafficking in Women and Children stated:

*"Over 200,000 Bangladeshi women are present in Pakistan and at least 2000 are languishing in jails and shelters all over the country."*¹⁴⁷

¹⁴⁴ Alms giving- Sunni Muslims are subject to a religious tax of 2.5% of their income

¹⁴⁵ Daily Times, 'CII deliberates whether Zakat funds can be spent on minorities', June 28, 2006, accessed at: http://www.dailytimes.com.pk/default.asp?page=story_28-6-2005_pg7_34, last accessed, 19/11/07.

¹⁴⁶ Human Rights Commission Pakistan, *State of Human Rights in 2006*, at: http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

¹⁴⁷ For more information see Lawyers for Human Rights and Legal Aid, *Trafficking in Women & Children*, <http://www.lhrla.com/trafficking.html>, last accessed 18/11/07.

Women trafficked into Pakistan may have been initially persuaded to move from their countries of origin on the pretext of marriage or employment. The women in these situations did not have legal residency in the country and are at risk of being prosecuted under the Hudood ordinances. Some women interviewed for this study in both shelters and jails described how they managed to escape from “pimps.” In general, such women rely on the good will of individuals to provide financial assistance for their repatriation. For example, women from Bangladesh do not receive any assistance from their High Commission as it refuses to take responsibility for the women. Women in these situations arrive in the country without documentation and so are unable to leave and are faced with the prospect of spending long periods of stay in shelters or jails.

The picture that is emerging is that trafficked women and children may then be sold to settle debts, disputes or are forced into marriage. In some areas of the NWFP the sale of women in open markets still continues. A shelter resident at the focus groups in Karachi had this to say:

“Women are bought and sold through auction and exchanged for a small piece of land. Even a dog is free in his life but women live worse lives than street dogs.”

They may be kidnapped and forced into prostitution or forced to work as domestic workers where their mobility is controlled and are often victims of physical and sexual violence.

4.6.5 ‘Camel jockeys’

Children from Pakistan are trafficked to Dubai (United Arab Emirates) and are used as camel jockeys. The children’s ages range between three and ten years. When in Dubai the children are typically mistreated and tortured. Some of the children have been abducted or come from poor families who believe that their children will have better lives abroad. The children are underfed to keep them light. During the study visit to the Ansar Burney Trust (Karachi) in 2005 workers there introduced the researcher to four young boys between the ages of three and six who had been rescued from Dubai. The researcher was told that the Trust had been doing extensive work in this area and had rescued thousands of children since this practice was first exposed in 1986. Although Pakistan has banned human trafficking the problem remains uncontrolled.¹⁴⁸

4.6.6 Recent events in Pakistan

On the 3rd November 2007 General Pervaiz Musharraf, Chief of Army Staff and President of Pakistan imposed a state of emergency through out the country. He suspended the constitution and promulgated a Provisional Constitutional Order (PCO). The PCO has wider implications for Pakistan’s judiciary because it prohibits the courts from holding or issuing any decree against the President, the Prime Minister or other government officials. The President has accused the judiciary of interfering with ‘war against terror’ and ‘growing militancy’ which he claims was threatening the stability of the country.

The recent events have not only paralysed the judicial system but given rise to major confrontations between the police and demonstrators, with the police using force and tear gas to control the civil society and the judiciary, and many opposition activists arrested. A Supreme Court Lawyer was out of the country when emergency law was imposed but she has been issued with an arrest warrant. A UN Rapporteur has been placed under house arrest and fifty four other human rights activists were arrested although due to international pressure they have been released on bail. At the time of drafting this report, democratic and legal process is severely curtailed within Pakistan, and the timetable for the scheduled elections remains unspecified.

4.7 Summary

As demonstrated in this chapter political and legal systems in Pakistan, rather than supporting the principles embedded in the Constitution, serve instead the maintenance of laws and systems that work against the rights of women. Within this context, marginalised communities such as Christian and other non-Muslim minorities experience discrimination at different levels thus infringing their civil and

¹⁴⁸ Human Rights Commission Pakistan, *State of Human Rights in 2006*, at: http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

human rights. The different forms of violence used against women by family, society and institutions can be understood as a key manifestation of prevailing unequal power relationships between men and women. These relationships work to maintain a situation where women have little choice but to accept gender hierarchies in all social relations of production and reproduction.

In later chapters the position of women in Pakistan will be examined in relation to police reaction and response to reported violence against women. We will also examine how a First Information Report (FIR) is registered and the process of response adopted by the police and a description of the different types of shelters in Pakistan.

Jamila's case

Jamila has five children. She cannot read or write. She and her eldest daughter (now an adult) had endured years of physical and sexual abuse, not just from her husband but also her husband's extended family.

Jamila's husband had moved to work in France. During a visit to Pakistan, he decided to take Jamila and the children to the UK. He never discussed with her why he was doing this and she had become too frightened over the years of enduring violence to go against his instructions or his wishes. Once in the UK he coerced Jamila to apply for asylum. He fabricated a story concerning a land dispute in Pakistan, which had led to him going into hiding somewhere in Pakistan and had led to Jamila and the children fleeing to the UK for their own safety. He stayed with the family to see what would happen to the asylum claim.

The Home Office rejected it. The court rejected Jamila's appeal (which she lodged on instruction from her husband) on the basis that the family could have sought protection from the Pakistani authorities in a land dispute matter. Throughout the claim and appeal, Jamila's husband continued his violence towards her and the children.

Soon after the appeal decision, the police arrested him following a violent incident against Jamila and the children. She and her children were placed in a women's refuge. Soon after his arrest he was released. He has since vanished and his whereabouts are unknown.

The refuge workers supported Jamila and her children to access therapeutic help and to access further legal advice about their immigration status. It emerged through sessions with counsellors that Jamila and her adult daughter had been subjected to extensive abuse.

Jamila lodged a fresh asylum claim with her new representatives, based on the domestic violence she had experienced in Pakistan. She admitted that the first asylum claim was false, albeit one lodged under duress. Her new asylum claim did not record the sexual abuse her adult daughter had been subjected to in Pakistan. Furthermore, her representatives were charging privately for work done. A distant family member in the UK was meeting the costs.

The Home Office rejected the asylum claim as a 'fresh claim'. They wrongly treated the application as a claim under the immigration rules on domestic violence. The Home Office's actions wrongly prevented Jamila from appealing against the Home Office's decision. The Home Office's mistakes had to be challenged by way of a judicial review.

In the meantime, Jamila had lodged a further asylum claim with expert evidence. Her claim was based on her husband's family's violence against her and her adult daughter.

The Home Office, recognising that they had made errors, offered to reconsider their decision. Out of the blue, the Home Office granted the family indefinite leave to remain. The Home Secretary can exercise discretion whenever s/he wants to. However, this case highlights the types of dangerous and life threatening errors the Home Office often makes. In Jamila's case, because of their errors and their effort to rectify them by offering indefinite leave to remain, they avoided having to deal with all the other serious asylum issues in her case.

Chapter five:

Women and domestic violence in Pakistan

5.1 Introduction and chapter rationale

This Chapter provides an overview of the position of women in Pakistan, including statistical evidence of the prevalence and the different forms of violence used against women throughout the country. It will also examine the range of ways that systems in Pakistan engage with and address violence against women as a criminal offence, and the impact this has on the victims. In addition we will look at the options women have when fleeing violent relationships, and consider the impact of religious and gender persecution in non-Muslim (specifically Christian) communities. As was also noted in Chapter three, in terms of the impact of recent international events, the 'war on terror' has had the consequence of increasing the pressure on women to identify their allegiance to Islam by adopting the 'hijab' or veil and to see this as a powerful political statement against the West. Alongside this the issue of 'honour' has taken on additional significance, extending from family honour to religious honour. This has had the effect of validating practices that are observed falsely in the name of Islam but are in effect based on patriarchy and the control of women.

5.1.1 Outline of the analysis

In exploring the experiences of, and provision of services to, women the analysis in this Chapter focuses on the options women have in seeking protection. It deals in detail with the procedure for registering a First Information Report (FIR), examines the police response to violence against women and also describes the different kinds of shelter provision in Pakistan.

A key feature of this study is to document the perspectives and accounts of women and service providers. We will therefore include extracts from the one to one interviews we conducted with women and will provide illustrative case studies of women's experiences with state agencies and the limited choices they have when fleeing domestic violence.

Country of Origin Information Reports are produced by the Border and Immigration Agency, (formerly the Immigration and Nationality Directorate) and are drawn upon by immigration judges in their determinations of cases of women asylum seekers from Pakistan. Aside from noting the need for services these reports say little or nothing about provision of services and the procedures by which women may seek protection. They do not adequately address and/or analyse the position and experiences of women accessing (the albeit limited) services in Pakistan. The material generated from this study supports the claim that these COI reports fail to address the complexity of issues affecting Pakistani women, especially in relation to the interface between the political, legal, secular and patriarchal systems and customary practices within Pakistan. This analysis therefore aims to address the gaps in the Home Office Reports by illustrating in some detail the lack of 'protection' and 'provision' available to women fleeing violence.

5.2 The position of women in Pakistan

"For years, women in Pakistan have been severely disadvantaged and discriminated against. They have been denied the enjoyment of a whole range of rights – economic, social civil and political rights and often deprivation in one of these areas has entailed discrimination in another." (Bari, 1994, p.45)

"Women, who have been denied social rights, including the right to education, are also often denied the right to decide in matters relating to their marriage and their divorce. They are more

easily abused in the family and community and are more likely to be deprived of the right to legal redress. Often abuses are compounded; poor girls and women are trafficked and subject to forced marriage, forced prostitution or exploitative work situations such as bonded labour. In all of these situations they are likely to be mentally, physically and sexually abused, again without having the wherewithal to obtain justice.” (Bari, 1994, P.48)

In every society the family unit is defined as being fundamental to both community and state. The composition, forms and functions of the family unit differ across societies and cultures and shape both power relationships and gender roles within society. As discussed in previous Chapters, throughout history and in different societies and cultures women have been defined by their reproductive role – beginning with childbearing, the responsibility for childcare, and as homemakers. As an extension of that reproductive role, in relation to the bearing of and caring for children, they have been accorded responsibility for providing a moral example and expressing national morality (Yuval-Davis, 1997). In Pakistan it can be argued that women have little or no control over their bodies and are indeed even deprived of control over their own reproductive capacity and related health issues. Nevertheless, as our interviews will indicate, the status of women within the family in Pakistan cannot be simply described in a general way – as applying in exactly the same way for all women in the country as women’s positions are often affected by factors such as class, socio-economic status, region, tribe and the urban and rural divide.

Gender roles in Pakistan are also influenced by social, religious, cultural and economic factors. However this is not unique to Pakistan and is reflected in many societies where organised religion plays a significant role in the political and legal systems. In this context women are often disempowered and become economically, politically and socially dependent upon men in the family.

The confinement of Pakistani women to their homes is maintained through ‘*izzat*’ (honour) and ‘*purdah*’ (veiling). Since the notion of male honour is linked with women’s sexual behaviour, the woman’s sexuality is considered a potential threat to the ‘*izzat*’ of the family (Bari, 2000). A woman’s position politically, economically and sexually is therefore clearly defined, restricted and controlled by men to ensure that she does not dishonour them and the family. Ruhi Khalid illustrated:

“In Pakistani society the traditional concept of the family and home as the only safe and secure place for women is deeply rooted in its customs and social beliefs. Any woman no matter what her marital status or social economic status attempting to leave home without the blessings of her guardians, is perceived as a threat to the ‘izzat’ i.e. honour of the family.” (Khalid, 2006)

Both analysts and participants in this study described how favourable treatment of male members of the family from a very young age creates the basis of power relationships between men and women. The man assumes his role of being superior to a woman and consigns her role to one of subordination. As one of the focus group participants in Pakistan commented:

“Women are discriminated against from birth. Our brothers and mothers do not treat us equally at home, a father treats a son and daughter differently and a brother treats a brother and sister differently.”

5.2.1 Factors influencing the lives of women

*“Women in Pakistan are disadvantaged from the moment they are born. The birth of a girl is frequently met with disappointment, even anger, and the blame is usually placed on the mother. As a result girls are more likely to die of childhood diseases. There are 91 females to every 100 males in Pakistan, according to 1991 estimates.”*¹⁴⁹

Chapter four already noted that there is very little national investment in girls’ education and skills development.

The literacy rate for girls in 1998 was 32.6% as opposed to boys which was 56.5% (Bari, 2000). Women are more likely to experience greater levels of poverty than men and are more likely to be unskilled and have restricted employment opportunities. For example, in urban areas women are

¹⁴⁹ See Amnesty, ‘Pakistan Women In Pakistan: Disadvantaged And Denied Their Rights’, at: <http://web.amnesty.org/library/index/ENGASA330231995>, 1995, last accessed 18/11/07.

usually employed as domestic workers or factory workers. In rural areas they tend to work mostly in the field or as bonded labourers. Yet for many women, finding even unskilled work can be problematic due to a combination of religious and cultural restrictions, as well as low literacy rates. Women in rural areas are deprived of access to basic health services. Girls are also usually expected to carry out household duties or care for the younger members of the family.

As service providers at one women's organisation commented:

"...the girl is a liability; at an early age the girl child is made aware that she is only a temporary member of the family. Any skills she learns will benefit not her own family but her in-laws."

5.2.2 Nature of domestic violence in Pakistan

*"There has to be a domestic violence law that is implemented and monitored; All communities should have options, not have help for a while and then you are own your own."*¹⁵⁰

Domestic violence is widespread and a global phenomenon both in developed and developing countries. It is generally accepted that there is no single cause for the violence perpetrated against women. It is a combination of cultural, economic, legal and political factors. In Pakistan violence against women is exacerbated by inadequate legislation and law enforcement and a judicial system that does not recognise domestic violence as a criminal offence.

"Domestic violence is a problem of mammoth proportions in Pakistan and one that has been ignored by society at large, by the government and, to an extent, by women's groups. While Pakistani society distances itself from this problem by viewing the abuse of women in the home as random, isolated instances, hundreds of women are burnt, mutilated, deformed and killed. The concept of chadder and chardewari (veiling and seclusion) that ostensibly guarantees women a harmonious life if they confine themselves to their homes, becomes a fatal deception when women suffer violent abuse in the space depicted as their 'haven.'" (Hassan, 1995, p. 3)

Women's organisations in Pakistan started raising the issue of violence against women in the early 1980s during the process of 'Islamisation' introduced by General Zia ul Haq in 1979 (see 4.6.1). This process and the legislation introduced by him led to increased violence against women in the public and private spheres. The increased victimisation of women in Pakistan led the non governmental organisations (NGOs) to raise awareness of gender based violence in Pakistan.

*In 1993 the Declaration on the Elimination of Violence Against Women, the United Nations took the position that member states were obligated to prevent, investigate, and punish acts of violence against "whether those acts are perpetuated by the State or by private persons".*¹⁵¹

Member states that do not wish to meet their obligations on human rights and gender based discrimination usually cite their own customs or traditions by way of explanation or excuse. Therefore the Declaration on the Elimination of Violence against Women also urged states not to *"invoke custom, tradition or religious consideration to avoid their obligation"* to women citizens.¹⁵²

Furthermore the UN Special Rapporteur on violence against women has clearly stated:

*"States have an affirmative obligation to confront those cultural practices of the community which result in violence against women and which degrade and humiliate women, thereby denying them the full enjoyment of their rights. International standards require that there be a concerted State policy to eradicate practices even if their proponents argue that they have their roots in religious beliefs and rituals".*¹⁵³

Pakistan is a signatory to the above declaration, yet it is widely acknowledged by national and international monitoring organisations (Bari, 2005) that it fails to adequately meet its obligations. We have addressed in Chapter four the Hudood Ordinances, Honour Killings and Swara which clearly indicate that women are still being criminalized for offences they have not committed and

¹⁵⁰ Interview with Social Development Adviser; DFID July 2006

¹⁵¹ UN doc. A/RES/48/104, cited in HRW 99:28

¹⁵² UN doc. A/RES/48/104, cited in AI 99:3

¹⁵³ UN doc. E/CN.4/1997/47, cited in AI 99:4

are therefore being denied justice. This highlights the discriminatory, social, cultural and traditional practices which define a woman's place in Pakistani society.

It is, however, important to recognise that women from urban and rural areas have different experiences of domestic violence depending on whether they are from a poor, or middle or upper class background. Women from urban areas and middle and upper classes are likely to have greater opportunities for higher education and, paid and professional work. The mobility of these women is less restrictive but they are less likely to speak about domestic violence because of 'family honour' and threat to their economic and social position. Yasmeen Hassan states:

"Many women from upper class and upper-middle classes face the same responses from their families. These women are economically more powerful than their lower class counterparts but the sense of honour and avoidance of shame associated with upper class women leaving their husbands is often much more than that associated with lower class women." (Hassan, 1995, p.61)

In rural areas women are not aware of their rights and are conditioned to accept that domestic violence is part of their life. At the focus group held in Hyderabad workers from rural and tribal areas said that women seemed to accept domestic violence as the norm and had to conform to rigid rules of behaviour.

Next we will examine the significance of 'izzat' and 'family honour'.

5.2.3 Domestic violence – A family matter, not a crime

*"My parents were of the opinion that I should live and die at my in-laws. I was unable to take it anymore."*¹⁵⁴

As already mentioned, in Pakistan a woman's 'honour' plays a significant role in controlling the voices and mobility of women. Domestic violence is generally viewed as a 'family matter' and women are expected to resolve the abuse within the confines of the home and family. The extensive documentary and empirical research conducted for this study indicate that the matter is rarely taken to court unless it has entered the public domain. This usually happens when the cases are exposed through the media.

Cases of 'public' violence, as we have seen in section 4.4.7 and 4.5.3, appear to be easier to condemn as they are open to public scrutiny. There is immediate reaction to the hideous nature of these crimes. 'Private' violence on the other hand cannot be so easily exposed or condemned because it is carried out behind closed doors. It is kept away from public spheres to protect the honour of the families involved. This not only disempowers women but, in effect, legitimises violence against them. Societal and state agency attitudes reinforce the notion of 'honour' by treating domestic violence as a 'family matter'. Women are rarely able to fight against this ingrained attitude of society due to the cultural values imposed on them.

"A woman leaving her husband's house or exposing what is seen as a private matter between husband and wife is seen as a source of shame to her family." (Hassan, 1995, p.47)

This view is further reinforced by the programme coordinator for women from the Aurat Foundation in Karachi:

"A woman is viewed as "Ghar ki izzat" (honour of the house) – this is the practice in Pakistan. She is not allowed to disclose the pain and suffering to anyone."

Participants within the study overwhelmingly indicated that if a woman wants to raise the issue of violence she will be expected to do so within the confines of the family to avoid 'dishonouring the family'. Her only options were seen to be to disclose the violence to her family members and ask them to intervene on her behalf or put up with the situation. Interviewees stated that there is reluctance from natal families to support women leaving their husbands because large amounts of money have been spent on her wedding and dowry. If a woman does return to her parent's home because of the violence from her spouse, efforts will be made to effect reconciliation and the woman will often be returned to the violent relationship. Programme Co-ordinator for Women, Missing and Kidnapped Children at Madadgar (NGO) in Karachi stated:

¹⁵⁴ Resident at DASTAK (Shelter), focus group held on 26th May 2006

"When a woman does return to her matrimonial home she may suffer further abuse at the hands of her husband and in-laws because she spoke out against the abuse."

It would seem that these reasons contribute to why there has been little support for treating domestic violence as a criminal offence by the state and by society at large.

A further key factor is that women who defy the social norm and are forced to flee are then socially stigmatised. A victim of domestic violence has to consider these factors before disclosing the abuse to anyone outside the family in case she becomes the subject of serious repercussions. Both service providers and women survivors/victims highlighted how women who are forced to leave violent relationships are labelled as bad women by Pakistani society. They are blamed for failing in their marriages and leaving their homes and as a worker from an agency in Peshawar commented:

"If she is alone from her family she is not considered a good woman"

The study's consultations with service providers and the one-to-one interviews with women clearly indicated that women were denied protection because of 'family honour'. 'Family honour' was seen as paramount to a woman's well-being. The women interviewed appeared to feel helpless and claimed that no one cared what happened to them as long as the family's 'izzat' was not tarnished.

Throughout our extensive interviews, issues of poverty, traditions, customs and religion were documented as impacting on the lives of women fleeing domestic violence. The social, political, cultural and economic factors that were discussed in (section 5.2.1) have both directly and indirectly affected the status and rights of women, as we outline below.

In general the view of the women we consulted with (and the consistency and uniformity of opinion was striking) was that the government had failed to protect their human rights and men were therefore free to do as they pleased. They claimed the men could even kill women and get away with it. The laws did not protect women against the different forms of violence used against them (see section 4.5.4). They further emphasised that if women left violent relationships they had no financial support and were unable to find work and could not live on their own without the support of a man. This economic dependency often forces women to return to violent relationships and reinforces their dependency on men. The alternatives were scarcely better. As the programme coordinator from the Aurat Foundation, Karachi noted:

"Prostitution is on the increase because the system has failed the women – they have to do something to survive."

5.3 Prevalence of violence against women

"According to HRCP estimates, one out of every two women was the victim of mental or physical violence. On November 28 [2006], Oxfam's representative claimed that approximately 80% of the country's women faced domestic violence in their lives."¹⁵⁵

It is widely reported that violence against women is widespread throughout the country. A study by the Punjab Women Development and Social Welfare Department in October 2001 claimed 42% of women accepted violence as their fate, 33% did not resist it, 19% protested, and only 4% took action against it. 53% of the perpetrators of violence were male relatives, 32% were husbands, other relatives accounted for 2%, and women (usually mothers-in-law) were responsible for 13%.¹⁵⁶

Human rights groups suggest that every second a Pakistani woman is a victim of direct or indirect violence:

"The incidents of violence against women are not isolated acts. It must be recognised that it is a manifestation of women's status and of historically unequal power relations between men and women."¹⁵⁷

¹⁵⁵ Bureau of Democracy, Human Rights, and Labor, *Pakistan: Country Reports on Human Rights Practices – 2006*, US Department of State, Amended March 2007, accessed at: <http://www.state.gov/drl/rls/hrrpt/2006/78874.htm>, last accessed, 18/11/07.

¹⁵⁶ Amnesty, 'Pakistan: Insufficient Protection for Women', amended April 2002, accessed at: <http://web.amnesty.org/library/index/engasa330062002>, last accessed 17/11/07.

¹⁵⁷ Bari, F, 'Social cost of violence against women', *The News*

Despite many proposals in progress Pakistan at present has no specific legislation on domestic violence and we will later address the impact this has on the lives of women.

Below is a statement issued by the British Foreign and Commonwealth Office on the situation of women in Pakistan and the measures to be taken by the Pakistani government in curtailing violence against women.

"The British Government continues to be concerned about the human rights situation in Pakistan, particularly that of religious minorities. The cases of individuals facing the death penalty or blasphemy charges have attracted parliamentary and public interest in the UK. Other human rights issues of concern include discrimination against the Ahmadi community, forced marriages, honour killings, child and bonded labour and the treatment of women, particularly in rural areas."

It continues:

"With our EU partners we will continue to urge the Pakistani authorities to redouble their efforts to bring the perpetrators of human rights violations and terrorists acts to justice. We continue to urge the government of Pakistan to fully guarantee the fundamental rights of all Pakistani citizens, particularly the most vulnerable (women and children) as laid down in the constitution of Pakistan and in accordance with the international human rights standards."¹⁵⁸

In spite of this acknowledgement by the British government of the position and treatment of women in Pakistan, this is rarely reflected in the decisions made by the Immigration authorities. The Immigration authorities suggest that women asylum seekers can return to Pakistan and relocate within the country in safety.

The above is an example of the contradiction between British government's foreign and Immigration policies.

5.4 Forms of violence against women

Here we should note that in addition to the usual recognised forms of violence against women such as physical, emotional and financial abuse there are additional forms by which abuse of women takes place in Pakistan. For example, stove burnings, acid throwing, mutilation (chopping limbs), child brides, forced prostitution, kidnapping, abduction and the trafficking of women.

In recognition of this, during the first fieldwork trip in 2005 the researcher visited burns victims at Mayo Hospital in Lahore and Patel Hospital in Karachi where women had been set alight by their husbands or mothers-in-law. The women we visited in Lahore had received 90% burns and were not expected to survive. The worker from AGHS burns project indicated that an increasing number of women were burnt by their husbands and mothers-in-law. Who would often claim that the stoves had 'burst'. She added that the women generally did not take legal action against the perpetrators of these crimes because they were either married into their extended family or feared that the natal families would be persecuted if they did not survive.

In Karachi we interviewed a young woman who claimed she had been set alight by her husband and mother-in-law because she refused to ask her mother (a widow) to transfer her house over to her husband. The woman had received 80% burns and she was being supported by the Ansar Burney Trust. The woman had refused to take legal action against her husband and mother in law because her only daughter was living with them and she was afraid of losing her. A second indicative case was that of a woman at a shelter in Lahore whose husband had chopped her nose off and she was undergoing surgery at the time of our visit. She told us that she had reported the incident to the police but they had failed to take any action.

The Burns Project at AGHS recorded fifty burns cases between January and May 2006, only nine cases had been registered against the perpetrators.

¹⁵⁸ Foreign and Commonwealth Office, Pakistan: Country Profile, last amended November 2007, accessed at: <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019041564003>, last accessed 18/11/07.

5.4.1 Statistics and their limitations

“The main reason for social indifference and inaction on the issue of the abuse of women in the home seems to be the fact that no one has put together all the data on domestic violence to present it as a systematic problem of vast magnitude and crucial importance, affecting not only the health and lives of women but also the health of society in general.” (Hassan, 1995, p.3)

The tables below illustrate how reported crimes against women are documented as significantly increasing. Given wide acknowledgement of the level of unreported acts of violence, it is likely that these statistics are major underestimates. The Home Office Reports on Pakistan rely on statistics and information provided by a range of International sources such as Human Rights Watch and United States State Department Reports. The reports tend to rely on basic statistics around generic issues of violence and do not always focus on the specific gender related violence with the exception of an emphasis on ‘honour killings’.

It is interesting to consider some of the statistics collated internally in Pakistan to see the spread, forms and prevalence of domestic violence. Table 1 has been derived from the statistics collected by the Gender Crime Cell of Police in Karachi from 1993-2004 and Table 2 from Madadgar (NGO) and Lawyers of Human Rights Legal Assistance from 2000-2004. While it is clear that estimates vary considerably, it is equally clear that all sources document significant increases in prevalence of domestic violence in Pakistan.

The statistics in Table 6 are police based information and are generally collated using newspaper reports, case referrals and through official bodies like government departments. In contrast the statistics in Table 7 are collated by NGOs using newspapers reports and their own case referrals. The police statistics have a category defined as ‘domestic violence’ but it is not clear what this comprises and this contributes to the discrepancies in the data in Tables 6 and 7. If we consider the levels of reporting by women it could be interpreted that it is more likely for women to turn to NGOs for services and support than the police so that the police data are likely to reflect significant under-

Table 6: Country Statistics of Crimes Recorded by the Gender Crime Cell of Police in Karachi

	Domestic Violence	Honour Killing	Acid	Vani	Sexual Violence	Harassment at workplace	Other Violence	Total
1993	1234	523	78	0	1085	42	1254	4216
1994	1167	589	75	2	1056	58	1206	4153
1995	1304	596	81	0	1076	39	1229	4325
1996	1402	622	70	0	1185	45	1246	4570
1997	1530	618	99	0	1410	72	1478	5207
1998	1541	572	87	2	1571	40	1511	5324
1999	1725	648	88	2	1654	79	1593	5789
2000	1830	651	95	6	1544	91	1654	5871
2001	2111	533	95	0	1370	59	1551	5719
2002	1551	397	19	0	1289	89	1347	4692
2003	1813	378	19	0	1717	127	1831	5885
2004	3088	392	32	1	2230	96	2546	8385

Table 7: Statistics Recorded by the Research and Documentation Centre of Two NGOs – Madadgar / Lawyers for Human Rights Legal Assistance in Karachi.

Nature of Violence/Abuse	2000 (Jan-Dec)	2001 (Jan-Dec)	2002 (Jan-Dec)	2003 (Jan-Dec)	2004 (Jan-Dec)	Grand Total
Murder	386	1422	1583	1636	1468	6495
Rape	404	576	984	1030	1047	4041
Torture/Injury	317	1195	1570	1920	1600	6602
Honour Killing	Not collected	736	803	930	870	3339
Burn cases	Not collected	311	240	380	310	1241
Corpses found	Not collected	Not collected	120	129	44	293
Abduction	690	1255	1404	1759	1397	6505
Police torture	Not collected	64	97	140	180	481
Suicide	638	1053	1112	1412	1327	5542
Trafficking	Not collected	36	28	84	62	210
Grand Total	2435	6648	7941	9751	8305	35080

reporting. This interpretation was substantiated by the qualitative material generated via the women's and service provider interviews.

It is evident both from the two tables and from the women we interviewed that crimes against women are still being under-reported. We will later examine reasons and causes of why women are reluctant to register these crimes with the police. During the course of conducting this study the Pakistani police were unable to confirm how many of the cases registered with them ended up as prosecutions.

"HRCP found no evidence of any decrease in the rate of crimes committed against women. Some violent crimes, including incidents of the rape of minor girls, increased. The perpetrators of crimes were not being punished and increased further acts of violence."¹⁵⁹

As described in detail in Chapter three, to further inform our findings two fieldtrips each of a duration of three months were undertaken to explore how domestic violence impacts on the lives of women in Pakistan and why they are forced to flee the country. During the fieldwork conducted for the study, it became evident that accurate statistics of violent crimes committed against women in Pakistan were not available. This is largely because many of the crimes perpetrated against women are not reported. The material generated for this study was thus qualitative, focused on the generation and analysis of accounts from various agencies, including interviews with key participants, and this study should help to amplify some of the key issues at stake in the gaps in official statistics.

5.4.2 The position of non-Muslim women

"The state shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedom without discrimination

¹⁵⁹ Human Rights Commission Pakistan – State of Human Rights in 2006, accessed at: http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

and in full equality before the law" (Article 4, Declaration on the rights of person belonging to National or Ethnic, Religious and Linguistic minorities).

In Chapter four mention was made of the situation of Christian women in Pakistan. We now consider their position in relation to domestic violence. (Time constraints prevented research into other minority communities such as Hindus and Sikhs).

The largest minority group in Pakistan is the Christian community which forms 2% of the overall population. While this may be a small percentage, given the population of Pakistan it, in fact, consists of several hundred thousand people (see HO C.O.R, 2007). Most of the Christians are poor and unable to access formal education because of discrimination. The Christian women are largely employed as domestic workers and are often victims of sexual assault and economic exploitation.

Analysis and participant accounts illustrated that this particular group faced religious persecution as well as gender discrimination. The women were discriminated against within the home and by the wider society that was intolerant of their beliefs.

5.4.2.1 Forced conversions of non-Muslim women

During our research concern was expressed by NGOs working with the Christian communities that they were dealing with a growing number of cases of young women being kidnapped, abducted, drugged and raped by Muslim men, often resulting in forced marriages and conversions. The Human Rights Commission of Pakistan's annual report State of Human Rights 2006 said:

*"...there was also a marked increase in the number of cases involving the forced conversion to Islam of women belonging to the minority communities, with this form of violence emerging as a bigger threat than during previous years. Fear of violence, intolerance and discrimination 'forced' many women to convert. The trend was to 'kidnap' or lure away a girl, get her converted and admitted to a madrassah."*¹⁶⁰

Further it is important to note that if parents wish to register cases of abduction or rape they are faced with an impossible task as the authorities argue that the women have embraced Islam and the parents are therefore not entitled to custody.

Below is a case of a young woman interviewed at Apna Ghar (a Christian shelter) in Lahore.

5.4.2.2 Case study: Mahek

Mahek lived with her family in Lahore. Her maternal aunt married a Muslim man and lived in Gujranwala. Because of the marriage her aunt had converted to Islam. In 1997, her aunt's husband came to their house claiming that her aunt was unwell and had asked for her. She went back to Gujranwala with him. She was then forcibly converted to Islam and sold to a Muslim man for 80,000 rupees. In 1998 the man forced her to marry him and to live as his prisoner. Mahek was denied contact with anyone outside and was tortured and physically abused by her husband on a daily basis. In 2000, she managed to escape with her one year old son. She was pregnant with her second child

Mahek went to her family home where her brothers refused to support her and turned her away. Her brother in law informed her mother about the Centre for Legal Aid Assistance and Settlement (CLAAS) and she took Maria and her son there for advice and assistance. She was admitted to their shelter and whilst living there gave birth to her daughter in 2001.

She applied for divorce and custody of her children. During the proceedings the judge granted the father permission to meet the children before every court hearing. In September 2004, during a visit, the children were abducted from court by Mahek's husband.

Since then numerous attempts have been made to locate the children but without success. Mahek is still living at the shelter and hoping that one day she will be reunited with her children.

5.4.3 Denial or focus on reconciliation

*"The crisis centre offers mediation and reconciliation if a woman requests."*¹⁶¹

¹⁶⁰ Human Rights Commission Pakistan – State of Human Rights in 2006, accessed at: http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

¹⁶¹ Interviewed worker at the Crisis Centre in Lahore on 16.5.06

As we have seen earlier in the Chapter, domestic violence is largely still not considered by society at large as a 'criminal matter' but as a 'family matter'. During our fieldtrips we monitored the newspapers and noted that violent incidents against women were reported daily. Despite this Pakistani society appeared to be in denial in its failure to accept domestic violence as an offence requiring urgent redress. There was sufficient evidence throughout the country about the atrocities committed against women but no adequate provision was being made available to women fleeing violent relationships. The evidence generated from the study indicated that a large number of service providers put emphasis upon mediation and reconciliation. One major factor for this was the economic dependency of women, which severely limits their options.

In addition it was generally accepted that natal families preferred women to return to violent relationships so that they would not be a burden on them and they could retain their family honour. This approach would appear to strengthen the position of perpetrators since they feel they can rely on their actions going unpunished and unchallenged. The focus on reconciliation and mediation does not necessarily improve the position of woman within the home but rather puts them at further risk of violence. It was evident from our study that the limited choices available to women in order to survive meant that they usually had no option but to return home and accept the abuse.

5.4.3.1 Legal redress

From our interviews with service providers and women themselves it was clear that the legal redress most commonly sought by women is Khula (dissolution of marriage filed by a woman). In order to obtain Khula the woman has to show it is impossible for her to live with her husband because he has not fulfilled his marital duties under the sayings and practice of the Sunnah.

There was formerly no specific law dealing with domestic violence. There were existing offences in the Pakistan Penal Code 1860 (various types of assault) but they were seldom utilised by women for domestic violence complaints as domestic violence was not considered to be a crime.

Due to pressure from NGOs and women's rights activists demanding protection for women fleeing violence the Family Law Courts Act 1964 was amended in 2002 by extending the jurisdiction of the Family Courts to offences of domestic violence. Family court judges have been given the powers to punish offences under the Pakistan Penal Code between spouses for acts of abetment and causing or intending to cause hurt, wrongful restraint or wrongful confinement. Words, gestures and acts intended to insult the modesty of a woman are also punishable.

It should be noted, however, that the amendment to the Family Law Court Act empowers the court to adjudicate these offences only between spouses and not between a woman and a man who is not her spouse. Furthermore, since this law only applies to a husband and wife it excludes the majority of women experiencing extreme acts of violence used against them perpetrated by other family members. Significantly, the court has the power to imprison and/or award compensation but no power to make a restraining order against the husband.

5.5 First information report

We will now examine the procedure for registering a crime, which helps explain both why there is an inevitable under-reporting of such crimes and also suggests why prosecution in cases of violence against women is so low. The First Information Report (FIR) is the first stage of registering a complaint of the commission of a crime, including domestic violence, with the local police station.

When the report is registered the police officer is legally bound to record it in the form of an FIR. When information of a 'cognisable' (arrestable) offence is given orally the officer writes it down and reads it back to the complainant who then has to sign or make a thumb mark on the document. The written information is then entered into a book kept by the officer. Anyone can report the commission of a "cognisable offence."

A 'non cognisable offence' is referred to a local magistrate and the police have no power of arrest without a warrant for such an offence. Where there has been no injury or only minor injury it will be considered as a "non cognisable offence."

The following can file an FIR:

1. An individual against whom the offence has been committed
2. A person who knows about the offence which has been committed or
3. A person who has seen the offence being committed

The police need not investigate a complaint where they consider it is not serious, or there are not enough grounds to investigate, or when their resources are already over-committed investigating more serious offences.

The police must record their reasons for not conducting the investigation and inform the complainant

5.5.1 Difference between a complaint and an FIR

A complaint is defined as an offence reported outside the police station. For example, if the complainant lives a few miles away from the police station and was on her way to register an FIR at the police station, but instead comes across a local police officer and decides to lodge the complaint there and then, the officer will write down the report and the statement and send it to the local police station to register the FIR formally with an allotted number. The FIR number will not be allocated unless the complaint is registered with the local police station and entered into the “*roznamcha*” (daily register kept at the police station).

Obtaining a FIR is crucial, as once the FIR is registered it sets the process of criminal investigation in motion.

The police have a duty upon receiving a report of domestic violence, rape or assault to immediately register a FIR with details of the crime contact a magistrate’s office to request a medico legal examination and accompany the complainant to the medico legal office for the examination. The police at this stage also have to investigate the crime and submit their evidence and results from the medico legal office to the Prosecutor. But, significantly, women we interviewed in Lahore, Karachi and Islamabad did not have their cases handled in this way. With the exception of a couple of cases where NGOs and the media had exposed the severity of the assaults the police failed to register FIRs.

In cases of domestic violence, it appears that the FIRs are only completed where there has been serious assault, as was explained by the following participants. The Deputy Superintendent of Police at the Women’s Police Station, Lahore stated:

“FIR is only registered if a woman is seriously assaulted – broken bones, chopped ear or other serious physical injuries”

As we have noted, the FIR is a crucial stage of a crime being investigated but as the Inspector General of Sindh Police said:

“Practically speaking approval to register or not register a crime is to do with corruption.”

5.5.2 FIR and false allegations under hudood or kidnapping

Interviews with participants across the three regions, generated accounts about families who had registered false FIRs against women who had gone against their wishes as illustrated in the following cases, each based on the account of a women survivor interviewed for the study.

5.5.2.1 Case study: Azra

In this case the woman, from the Sunni sect, married a man of her choice. Her family disapproved of her husband because he was working class and from the Shia sect.

Azra was 25 years old from the Punjab and belonged to a wealthy landowning family. One of her brothers was a local councillor and a very influential man. Azra fell in love with a young man from her neighbourhood. When her family discovered her friendship they physically abused her and locked her in a room where she was tortured with electrical currents and denied food. Her brother had also threatened to kill her if she refused to end the relationship with her boyfriend. One day she managed to escape and sought shelter in a friend’s house. A few hours later her boyfriend arrived and made arrangements for the couple to get married secretly. Her family found out. The couple were forced to

move several times because her brother had threatened to kill them both. Each time they moved they were traced and they finally ended up in Sindh. After a few weeks Azra's family tracked her down. She was forced to flee from there without her husband because she was pregnant and wanted to be somewhere safe. She decided to return to a city in the Punjab. When she arrived at the railway station she was very distressed and a woman came up to her to find out what was wrong. Azra explained everything that had happened to her and the woman said she was from an NGO and she would take her to a safe place. She was brought to a refuge.

Azra discovered that her family had registered a case against her husband claiming that he had kidnapped her. They also claimed that Azra was previously married. Her brothers had put up a reward to have the couple killed.

Registering false cases against women is a method of pressurising them to return home. Such false accusations can also lead to imprisonment or death for the couple.

5.5.2.2 Case study: Ayesha

The following case study is an example of how false cases are registered against women through bribery of police officials.

Ayesha was 16 years old when she had to flee her home in Peshawar. She came from a very wealthy landowning family. She is the only daughter in the family. Both her father and brothers are educated but she was denied education. They all lived together as an extended family.

One day she was in a room with her mother, paternal uncle and his two sons when her paternal uncle announced she was to marry his 14 year old son who had mental disabilities. She refused. He was furious and started hitting her; he then went for his gun. Her mother panicked and told her to run away because she thought he would kill her.

She fled from the house. She had walked for hours before seeing a police station where she handed herself in for protection and made a statement registering an FIR against her uncle. The officer asked for her home phone number so that he could speak to her paternal uncle to try to effect reconciliation. She overheard her uncle offering the police officer three Lakhs (approx £3,000) to hand her over to him.

After the officer finished speaking to the uncle he told her to make a fresh statement, this time dictated by him. He threatened that if she did not she would spend the rest of her life in prison. She felt she had no choice but do as she was told. The officer then said she was being charged under the 'Hudood Ordinance' and detained her.

The following day she was brought before the court without any legal representation and after a conversation between the judge and the police officer she was sent to Swat jail. She spent one month at Swat jail and was then transferred to Peshawar Women's Jail.

On arrival at court she was immediately taken to the judge's room. Her family was waiting outside the court building fully armed. The judge said he was aware her life was in danger and said that in future he would visit her in jail. The judge did not take any action against her family who were carrying weapons. She still had to appear before him in court on two to three occasions, but he said he had to discharge himself from the case because of the threats from the family. Her lawyer also declined to continue acting for her for the same reason.

She spent two and a half years in jail without any legal representation because no one was willing to take her case on. During a visit by some High Court judges Ayesha told them that she had spent a long time in jail for an offence she had not committed and needed their help. Within one month the High Court dismissed the case registered against her. However she was not released but instead was informed she was to be transferred to Swat jail again because a second case of 'Hudood' had been registered by her uncle against her in Peshawar.

Three months later a different judge ordered her release. When her family heard about her release they threatened to kill the judge. The judge visited her in jail and said he had to sentence her to eight years because of the threats and intimidation from her family but he hinted that he would be framing the case in such a way that she would be able to secure her release because her family had a very weak case.

Arrangements were made to move her to Haripur jail. The first two attempts failed because her family had blockaded all the roads in an attempt to kill her. On the third attempt she was transferred in the middle of the night.

The superintendent at the jail advised her to appeal to the Shariat Court. After one month the court recommended that she be released. Her elder brother requested a meeting with her through the superintendent at the jail. He claimed he had tickets for Karachi where she would be safe and wanted her to accompany him. He assured her no harm would come to her and she agreed to leave with him. However she was warned by a prison officer that her family was waiting outside the jail planning to kill her. She chose to remain in jail too frightened to leave.

Almost five years later an 'official-looking' American woman visited the jail and interviewed her. She did not know who the American woman was; she said she would contact Aurat Foundation (an NGO) to assist her. Arrangements were eventually made for her departure from Peshawar under a new identity.

Although for the time being she has escaped the threat of being murdered, in her interview she reiterated that she still does not feel safe. She cannot leave the shelter in case she is traced by her family. Her family had previously said to her they would trace her in any part of Pakistan.

As can be seen in this case, wealthy and influential families not only threaten the women but can also use their power against state agencies to deny women protection from them.

While registering an FIR is an essential first step leading to investigating a crime, but for women in Pakistan accessing this process can implicate them in crimes they have not committed.

5.6 Police response and attitudes to domestic violence

The primary role of the police should be to protect victims of violence. However, there would appear to be reluctance on their part when it comes to processing complaints of domestic violence due in part to a desire to keep families together and due also to a lack of empathy to the plight of women who come to them for help, which borders.

The interviews we conducted with Pakistani police indicated that the emphasis and priority of police intervention was to keep families together. When a woman comes to report a crime of domestic violence she is advised to resolve the matter within the family and not through the courts. The reason given is that women have no means of supporting themselves and their children.

The Deputy Superintendent of Police at women's Police station (Lahore) described the role of the police is to:

"...encourage reconciliation one hundred and one percent, because we do not want to break up families. At the time of mediation or reconciliation if a man is being aggressive or non conciliatory he will be asked to sign a statement confirming that he will not use violence or intimidation against the woman with the penalty of a reprimand if he breaches his word" and she further added that "Women have nowhere to go – what will they do if they leave their homes?"

A high ranking officer we interviewed said:

"Nothing is available for women – they cannot survive. Usually the women reconcile because they cannot support the children or themselves."

Another factor was bribery and the corruption of the police. This is discussed in the next section.

It was striking that every woman victim/survivor interviewed for the study claimed that incidents of physical or sexual assaults they had reported to the police were treated with cynicism or worse. The women claimed they experienced resistance from the police in reporting these crimes and so were denied access to justice. This view has also been confirmed by Amnesty International:

"...harassment, intimidation, physical abuse, and bribery of persons seeking the services of the police were common phenomena, indicating endemic corruption and a serious lack of accountability and professionalism in the police force" ¹⁶²

¹⁶² AI Index ASA 33/013/1998

As illustrated above, participants emphasised how the priority for the police is to keep families together, which often has the effect of minimising reporting of crimes against women. The co-ordinator of War Against Rape in Karachi commented in her interview:

"It is viewed that these are private family matters and should be resolved within the family. If a woman goes to report an incident to the police they discourage her from reporting and she is told to deal with it privately. Families think men have a right to beat up their wives... The police are very negative and do not take the issue of domestic violence seriously. For example if a woman reports an incident the police will say 'You must have done something wrong', again the culture of blaming the woman."

One very significant consequence of the under-reporting of domestic violence cases is that women leaving violent relationships have no confidence in the police. It would seem that the police refuse to take such women seriously even when there is evidence of physical injuries; they fail to take action as this example from the account of the Director at Dastak (shelter) indicates:

"We have a woman who has multiple fractures in her arm – it is plastered and when she was admitted she was advised to register an FIR but she declined. Three to four days later she decided to register the FIR but the police refused to register the assault and said it was too late – this is the attitude of the police."

This police response and their failure to register an FIR from the victim who clearly had evidence of physical injuries are similar to other accounts we documented of the police response to domestic violence cases. In this case the shelter workers were involved in supporting the woman.

In cases of physical or sexual violence, it is the responsibility of the police to refer the woman to a medico legal office for examination, but the delay in registering an FIR and the fact that victims are often disbelieved, particularly in a rape case, delays the process of gathering forensic evidence for the legal proceeding the woman may wish to initiate.

Whilst there are clear protocols for registering the FIR, this does not appear to translate well into practice as is discussed next.

5.6.1 Bribery and corruption within the police force

All the participants in our study discussed bribery in the police force and how this impacted in very direct ways on women and the failure to prosecute in cases of domestic and sexual violence. The co-ordinator of one NGO highlighted some of the possible reasons for the levels of corruption within the police:

"Due to illiteracy [poor education] of police officers and the fact that it is a very low-paid career, the police take cases of domestic violence as a maximum money-making opportunity. They do not register cases (FIRs) properly against criminals."

Both Government and NGO staff highlighted as a key problem the extent of bribery and corruption within the Police. As the Co-ordinator of War Against Rape commented:

"Bribery/Corruption is a major problem. The Police think the women will offer them money and they have even contacted victims to get money from them."

The Superintendent at Dar ul Aman, Rawalpindi also stated that:

"If a woman goes to a police station but her family reaches there before her, the FIR will be registered against her."

Moreover, the subordinate status of women generally and the discriminatory practices used against them inevitably makes them more vulnerable to being exploited due to their social circumstances. Most women approaching the police come from poor backgrounds and do not therefore have the economic power to influence any of the decision-making processes. For instance, they are not in a position to bribe a police officer at the first stage of registering a crime and as a result are often denied access to justice.

Many participants, both women and service providers, discussed how bribery and corruption is so prevalent in the police force that women are reluctant to report criminal offences. The Director of HRCF stated:

"The police are corrupt. Wealth can buy anything and women are not wealthy therefore the police will not get anything from them so why should they bother about them. It is all about economic power."

The case below is indicative of the practices of bribery and corruption as told by the coordinator from Behbood-e-Niswan in Faisalabad.

"I was told a short while ago that the husband of the girl who was murdered last night has already bribed the police and the doctors. The doctor will probably say that she died of a heart attack. I come across such cases that I start crying myself. I wish I could do something but the sense of helplessness is painful."

This was reinforced by the stated the coordinator at Aurat Foundation in Karachi:

"Women are afraid of reporting incidents of violence because if she does report it to the police the family will accuse her of being a bad woman and will have her arrested under the 'Hudood Ordinance' or she may become a victim of 'Karo Kari.'"

What emerged from the interviews was that the first consideration a woman has is not whether she should go to the police station to register the crime, but rather whether she has the resources to bribe the officer to register an FIR. Since women were aware of the practices adopted by the police, their accounts indicated that many assume it is a worthless exercise to seek their assistance if they are unable to bribe them. As a worker at Action Aid International commented:

"They [police] are very unfriendly and tend to be sympathetic with the man. The police don't act because of their patriarchal attitudes and they are not well-trained or well paid. They are very under paid and therefore getting money is a matter of survival for them."

It appeared from the interviews with participants that, unless women were in an economically strong position, they were unable to access protection from the police. And even then it might be that the estranged family's influence and economic power would hold greater sway in determining proceedings.

5.6.2 Reporting physical and sexual assaults

In cases of physical and sexual assaults medical evidence is central to a criminal prosecution. As previously indicated, if there is evidence that a woman has sustained injuries to her body then the police have to respond by setting the procedures in motion, for example, immediately referring the woman to a medico legal officer and registering an FIR. Participants in the study highlighted how in practice, the police reluctance and lack of commitment to gather evidence expeditiously often results in the failure to prosecute the perpetrators of these crimes.

"Sexual assault victims are entirely dependent on the police for information about and access to medico legal systems. Most victims are unaware of the urgency, critical importance, or even existence of medico legal examinations."¹⁶³

A further obstacle was identified in the interface between medical and police responses as described by the Coordinator of War Against Rape in Karachi:

"When a woman is raped she needs a medical examination but when she goes to the Medico Legal Officer (MLO) they will ask if an FIR has been registered and if it has not they will not examine her until such time as the FIR is registered. The delay often means the medical evidence is not available but according to required procedure of law the MLO could examine the victim and ask the police to come to them to register the FIR, but this does not happen."

Throughout the fieldwork it became clear that the lack of police response and delays in registering FIRs in cases of rape and assaults against women prevented them from accessing the justice system. As the programme co-ordinator from CLAAS said:

"Police discriminate against rape victims – they do not take them seriously unless an NGO is involved - that is if they have reached an NGO."

¹⁶³ AI Index: ASA 33/013/1998

Thus the state has a long way to go in addressing the lack of police intervention in crimes of violence against women and other shortcomings in the criminal justice system. Alongside wider structural change to enhance the position and status of women, it appears that training, gender sensitising and improving employment conditions of the police officers may be a way forward in persuading the police to prosecute cases of domestic violence.

5.6.3 Violence against women in custody

As the British Home Office report acknowledges, not only are women in Pakistan vulnerable to violence in the home but they may also be subjected to further violence when in custody of the police.

In July 2000 the government put forward measures to protect women who came into contact with the criminal justice system. The introduction of women's police stations and prohibition of women from being detained after sunset were outlined, but not implemented. A participant from an NGO pointed out:

"There is a policy that women cannot be detained after Magrib (sunset) to avoid sexual assaults or harassment – but it happens."

It is hard to avoid drawing the conclusion from our interviews that the failure to implement any form of legislation to protect women is an indication of how ineffective and weak the infrastructure is within the criminal justice system.

The following shelter resident was interviewed as part of the study.

5.6.3.1 Case study: Noreen

Noreen is from Chakwal in Multan. She was from a poor background but married a wealthy man. Her husband was in the army. He decided to move to Karachi where his wife and children joined him.

One day in 2003 he failed to return home. His wife contacted her sister-in-law who turned up a couple of days later with her son and took Noreen and their children to their house. A few days later her nephew phoned the police. He arranged for the police to accompany him and Noreen to collect her valuables from her house. When they were at the house the police officer said that her husband's body had been found (elsewhere) and he had been murdered. As they were leaving Noreen saw her nephew giving one of the officers one Lakh (approx. £1,000). The nephew immediately started accusing Noreen of murdering her husband and she was taken into police custody. Her nephew took her children. At the police station she was told she would have to sign a statement confirming she had murdered her husband and she was told that if she refused she would be beaten up. The female officer pulled her 'purdah' off and asked her colleagues to bring a baton and started slapping and beating her up. She said: *'the Police don't respect women and treat them badly – How can one woman behave so badly with another woman – the female police officers abuse women'*

She was interrogated all day but did not admit to the crime. In the evening she was taken to the cell and the male officers slapped her and said: *'You had better tell us how you murdered your husband or else we will rape you and use electric currents to torture you'*. They also threatened to kill her, and her children.

She was taken to a women's 'thana' (Police station). There she was beaten up by a female officer and was given no food or water for two days. She was then remanded in custody awaiting trial.

She made numerous appearances in court and made requests to see her children but nothing happened. Finally in July 2006 a retired judge paid her surety (occasionally retired professionals make these kinds of philanthropic gestures) and she was released on bail under the provisions of the Law Reforms Ordinance 2006. She had been in custody for three years.

Her children had been living with her sister-in-law and she had not seen them since she was arrested. She was missing them and wanted to be reunited with them. She had nowhere to go but was planning to contact her family in Multan to see if she could return to them and fight her case.

She said that she was innocent and believed her husband was murdered by his nephew so his family could inherit all the family land and properties.

This case highlights the following key issues:

- False FIRs registered against women
- Bribery and corruption within the police force
- Female as well as male officers using abusive tactics against women suspects
- The influence of wealth in obstructing women's access to justice
- Intimidation by the police including threats of rape and sexual assaults on women

5.7 Legal services: barriers to accessing lawyers

It is significant that all the service providers interviewed for this study claimed that they offered legal assistance to women fleeing domestic violence, but many of the victims we interviewed complained about the difficulties they had in accessing lawyers and legal aid. In some cases women said they had to raise funds themselves to proceed with their cases. Some of the NGOs we interviewed said they had limited funds and were therefore unable to take on large numbers of cases. A human rights activist interviewed for the study noted:

"Quite a few NGOs say they give free legal aid, but there are only about ten of those who actually do, and they give a very small amount each."

Many of the residents in shelters visited also expressed concerns at the difficulties in consulting lawyers and the non-attendance of lawyers at court hearings and regarding their cases. This would appear to offer clear indications that women with low or nil income encounter major barriers to accessing to justice unless they are somehow able to fund their cases or have NGOs supporting them.

5.8 Summary

In general the women survivors and users of services interviewed for this study (and the consistency and uniformity of opinion was striking) reported the government had failed to protect their human rights. The laws did not protect women against the different forms of violence used against them and men were able to kill women without fear of punishment.

The participants further emphasised that if women leave violent relationships they have no financial support, and unable to find work and therefore cannot live on their own. This economic dependency often forces women to return to violent relationships and reinforced their dependency on men. The alternatives are scarcely better – for example forced or voluntary prostitution.

The overwhelming view of women fleeing violent relationships is that they do not receive protection from the police largely because the police treat domestic violence as a 'family matter' and fail to register FIRs against the perpetrators.

Yasmin's case

Yasmin is a young woman from a town in the Punjab. Her father is a gambler and a heavy drinker. Yasmin described her father as a violent, dominating and controlling man who has associations with men of ill repute across Pakistan. He has married a number of his daughters to older men in Pakistan. Yasmin and the family believe this is the way he has paid his gambling debts. Yasmin was facing a similar arrangement, a marriage to an older man, without her choice or consent. In order to delay the marriage, she travelled to the UK to visit one of her sisters who had settled in the UK. Her father had agreed to the visit as he was unaware of his daughter's intentions to delay the marriage. The sister in the UK had managed to avoid such a marriage and instead had her marriage arranged by a different member of the family.

In the UK, a member of a family at a social function approached Yasmin and her sister. They had seen Yasmin and wanted to discuss the possibility of her marriage to their son. Yasmin agreed to the proposal and believed it was the solution to her problems. She believed this be a proper marriage, not a forced one.

A few months later the marriage ceremony was complete. She discovered during the first night that her husband was a drug addict and violent. He repeatedly raped her that night. In the short time she was in the marriage he repeatedly subjected her to other forms of physical, sexual and psychological violence. His family who were complicit in his abuse of her, kept her as a kind of 'prisoner' in the house.

A few weeks later, during the one occasion she had been left alone in the house, she called her sister. Her sister informed the police, who helped her to leave the family and the house.

Yasmin has been treated on and off for severe depression and has attempted suicide on a number of occasions. She was too scared to return to Pakistan and faced a forced marriage to an older man at the hands of her father.

She applied to the Home Office to remain in the UK under the terms of a domestic violence concession, (now part of the Immigration Rules). The Home Office rejected her application.

The judge rejected her appeal. Yasmin was unable to produce sufficient objective evidence of her husband's violence, apart from a police record of their intervention, when they escorted her away from the husband's family home and medical evidence in connection with her depression. On this occasion though the judge accepted she was telling the truth because of how she came across during the appeal. However the judge refused the case because only a person who had entered the UK with a spouse visa and whose marriage broke down because of domestic violence within the probationary 2 year period qualified to apply to stay in the UK.

Following a short recovery from a long spell of depression, Yasmin wrote to the Home Office to requesting asylum. The system for starting asylum claims had changed (but her then lawyer had not explained this to her) and the Home Office were no longer accepting 'postal claims'. The Home Office rejected her letter.

She then went to Liverpool in person to lodge an asylum claim, as instructed by the Home Office. Against she was turned away. On this occasion, she was told that her record on their computer showed that she was already a British Citizen and therefore there was no need to claim asylum. It took extensive correspondence, over nearly a period of a year, between her then representatives, the Home Office, and the Home Secretary (at that time, David Blunkett) to correct the Home Office's mistake.

She made a third attempt to lodge an asylum claim. Her claim provided a full and detailed history of her family experiences, the threat of being sold to an older man, her marriage in the UK and the ensuing violence, and her experiences of the confusion and delay caused by the immigration and asylum system. The asylum claim was rejected by the Home Office. During the

Home Office interview, Yasmin was accused of distorting her account and of lying, in spite of formal Home Office and appeals records corroborating her account, all of which were made available to the Home Office's interviewing officer.

Yasmin lodged an appeal. A few days before her appeal hearing, the Home Office conceded in her case and agreed to grant her full refugee protection. They finally accepted that her father was an agent of persecution, that there was no state protection for her anywhere in the country and that there was sufficient evidence that it would be 'unduly harsh' to expect Yasmin to internally relocate. However, it took Yasmin years of dealing with the Home Office's accusations and disbelief, their bureaucracy and legal technicalities of the immigration and asylum system, with severe consequences for her physical and mental health.

Chapter six:

Access to services and shelter provision in Pakistan

A key task for the study was to identify service provision in Pakistan available to women fleeing domestic violence and to evaluate how accessible these services were. The main aim of the shelters there is to provide safety to women fleeing different forms of violence, usually for a maximum period of three months (unless there are exceptional circumstances). During this period they are provided with legal assistance, healthcare, food and clothing (within the financial constraints experienced by the majority of the shelters).

6.1 Introduction and rationale

Overall it was our impression that, whilst the shelters are under resourced (some of them acutely so), they have been able to implement some good practices, for example, in some cases offering in-house counselling and psychological support. Legal assistance is also immediately available to women from female lawyers present at the crisis centres, or from lawyers based in the same building as the crisis centres. Fieldwork observations indicated that women in some shelters are encouraged to develop skills that will empower them, with some shelters offering in-house training on a wide range of issues to raise awareness of women's rights. Many of the women fleeing violent situations have never made choices or decisions about their lives but in some of the shelters that were visited there was support for women to take control of their lives and make decisions or choices affecting them.

Like many other nations, Pakistan is a country with clear class distinctions in which people can be categorised as very poor, working class, middle class and elite. Knowledge of, and access to, services depends on where a woman is fleeing from, her financial circumstances and her level of education. The majority of women fleeing domestic violence come from rural areas where there is very little awareness of women's rights and often very poor service provision for the women.

6.2 Accessing shelter

It was noted from observations in Lahore that some women had travelled hundreds of miles to access services. Prior to reaching a crisis centre a number of women went to *Data Saab* (a shrine) because they were not aware of the services available for women fleeing violence. Women often go directly to the shrines to seek some form of shelter and may stay there for two to three days. In Pakistan there are many famous shrines, for example, the Imam Bari in Islamabad. These are used by women as a first port of call because they are open twenty four hours a day, and free food is provided and people can stay for as long as they want.

While at *Data Saab*, women are advised by female visitors to go for assistance to 'Hina' or 'Asma', two lawyers who are well known figures amongst the public because of their high profile work in the field of women's rights who also happen to run a crisis centre and shelter. These two names figure frequently across different regions of Pakistan. This is not only an indicator of their renown but also of the limited number of similar services within Pakistan.

6.2.1 Initial assessment

A crisis centre is the first stage of contact for a woman before admission to a shelter. Crisis centres play a crucial role in assessing a woman's needs and the risks she faces. A woman is never turned away without a full assessment of her case. If necessary, immediate action is taken to protect her. Lawyers, advice workers and counsellors are available to offer immediate support to women at the centres.

After the initial assessment the woman is then referred to a shelter. Crisis centres and shelters in Pakistan vary in their policies and practices, though they have several factors in common.

Below is an examination of the role of a crisis centre where the researcher did an internship.¹⁶⁴

This crisis centre is based at the AGHS Legal Aid Cell (a lawyers firm) and is open six days a week. It accepts referrals from all over Pakistan, including self referrals. When a woman arrives at the centre a worker carries out an initial assessment of the case and if appropriate refers the matter to *Dastak* (a shelter) or another agency.

Observation (with permission from the participants) of the initial interview confirmed that the woman is asked why she is fleeing from her family, the nature of violence she has endured, how far she has travelled to arrive at the shelter, who (if anybody) has assisted her, the exact date she left home, and whether she stayed anywhere else before reaching the centre.

If the woman is accepted by the shelter then the worker will immediately inform the family that she is with them. This is done to prevent husbands or families from registering false cases against women or the NGOs which can lead to workers in NGOs being arrested (see section 6. 12). If the family wishes to visit or contact the woman they are told to make arrangements through the office and a meeting will be arranged with the consent of the woman.

It is important to note here that this process is in complete contrast to procedures in UK shelters, where generally the family is not contacted. The crisis centre also assists women with mediation and reconciliation. In the UK refuges, generally speaking, do not engage in mediation or reconciliation work but will support the woman in coming to a decision about her future. The reception area is used as a meeting point where husbands or families can attempt to resolve the disputes amongst themselves or with the intervention of the worker. The crisis centre makes arrangements for the woman to be collected by the shelter warden using the shelter's transport. The address of the shelter is strictly confidential.

Once a woman has been admitted to the shelter, she is informed of the house rules and if she needs legal assistance she will be referred to a lawyer who attends the shelter's offices. Having immediate access to a lawyer makes it easier for a woman to seek advice swiftly, (in the UK women sometimes have to wait to be referred to a lawyer, often resulting in long delays before they receive legal advice.).

The study indicated that the ethos of both NGOs and government-run crisis interventions is similar.

In Pakistan the crisis centres and shelters claim never to turn women away if they are a victim of domestic violence. This, too, is in contrast to the UK where refuges have policies of turning women away because of the limitation on the numbers of women they can admit due to health and safety regulations.

6.3 Government shelters Dar-ul-Amans (house of peace)

*"The government shelters are sub-jails; they are extremely oppressive and behave like a family patriarch in controlling women. Government shelters say they provide counselling but they are either not there or absent. Help with children is completely absent. I personally have a problem with them as the management look down on the women and in some, women say they are forced to take part in prostitution."*¹⁶⁵

Dar-ul-Amans are government-run shelters for women fleeing domestic violence.

They are funded by the provincial governments' Social Welfare and Women's Departments. Guidelines on the running of the shelters are issued by these departments.

Admissions to these shelters are only accepted via the courts and police. The maximum period of stay for women is three months but in some cases women can remain at the shelter until their cases are resolved (which can be up to a year).

¹⁶⁴ In order to understand how NGOs, crisis centres and shelters function in Pakistan the researcher spent two weeks under an internship at the AGHS crisis centre in Lahore and closely observed two NGO run shelters in Karachi and Lahore as well as spending a total of three months conducting fieldwork interviews. The purpose of the internship was to get an overview of how far women have to travel to reach a service provider and their reasons for fleeing. As the crisis centre operates a drop in service, women from all classes are able to access this.

¹⁶⁵ Interview with human rights activist in July 2006

Travel outside the shelter is restricted to court appearances or medical assistance. One of the residents interviewed said: *'We are not allowed to go out of the shelter unless we have to appear in court'*. The women are expected to remain within the confines of the shelter. Food, clothing and accommodation are free. Legal representation is available to women but they have to make a small contribution for the cost of documentation, for example, getting a divorce certificate. The shelters also offer counselling and basic vocational skills, such as, sewing and embroidery.

The *Dar-ul-Amans* are usually situated in public areas and are sign-posted. They have security guards posted at the entrance of the main gates. The buildings tend to be old and run down with heavy metal fences restricting women's mobility. A resident, who wished to remain anonymous, said:

"We make tazbi (rosary) here and are desperate to leave the shelter. The charpai (beds) at the shelter are broken, there are big rats everywhere – they go on plates and we eat out of them and we also cook there. Women and children get ill and some are dying but no-one does anything – no one cares. The doctor has to be paid 130 rupees – no-one has that money. We are not allowed out but they could allow us to go into the garden because we need some fresh air."

In the shelters visited as part of the research the women had a rota for cooking the meals and cleaning. There were six to eight beds in a room and sometimes up to ten or more women shared a room. Residents discussed how they were prevented for security reasons from using the grounds to relax or take exercise. They shared communal areas and spent much of their time in their rooms or sitting on the veranda. In exceptional cases the *Dar-ul-Amans* allowed some women to remain with them on a long-term-basis, for example, in situations where they had no family. They also arranged marriages for the residents who had no family, because as one worker said: *'a woman needs a man to look after her'*.

Different seasons also affected the conditions in the shelters. During the summer the conditions within the shelters were extremely poor because the fans or air coolers had usually broken down and were not replaced or repaired, due to lack of resources. In contrast, in winter there was no heating provided. Staff at the *Dar-ul-Amans* visited confirmed they were under resourced and sometimes the workers paid money out of their own pockets to support the women.

During our second fieldwork visit (May-July 2006) there had been some recent discussion between the government and NGO run shelters to share and develop policies and practices to improve service provision for the women. Unfortunately, the general ethos of the government shelters of treating women as prisoners and running the shelters as sub jails has not helped to move these initiatives forward.

A recent change in policy for both government run and private shelters is that they do not admit boys over the age of five (previously boys up to the age of eleven were admitted with their mothers). As a result the boys are separated from their mothers and sent to the orphanages or *madrassas* in the locality.

This should be contrasted with UK where some refuges allow boys of up to the age of fourteen years to be admitted with their mothers. (However practices in the UK also vary from refuge to refuge and some have a lower age limit than this).

The policy of excluding boys over the age of five is unfortunate because not only will the child have gone through the traumatic experience of witnessing violence at home but he is then further traumatised by being separated from his mother. Some of the shelters are overcrowded, with poor facilities. There is no key worker system, poor working conditions, no case work supervision, and no training or worker accountability. The workers appear to run the shelters with very little input from trustees except for one shelter where regular meetings were held and there was a regular dialogue between shelter manager and trustees.

In terms of their distribution, the shelters are mainly established in the cities and are used by women from both urban and rural areas, although workers and organisations believed that the majority of the women who use the government and private shelters are from rural areas.

It is relevant to note that the government's commitment to establishing shelters in Pakistan has been slow. This is further reflected in the inadequate service provision available to women fleeing domestic violence. During our fieldtrips it was difficult to ascertain exactly how many government-run shelters existed in Pakistan. It was claimed that the government had promised to set up shelters in every

district, but it was clear that this commitment had not yet been realised.

Local NGOs and shelters were contacted during the research to verify the number of new shelters set up by the government but the information was not forthcoming. One NGO stated that they had asked the Government Department for a list of the new shelters but were informed that such a list was unavailable. In February 2007 we contacted a human rights activist, once again with the intention of obtaining a list of new shelters but she too was unable to access this information. It can only be surmised that if this information is not available then such shelters as there are can hardly be accessible or well publicised.

6.4 NGO and private shelters

The shelters described below offer indicative examples, rather than an exhaustive list, of those whose provision was researched for the study. They are presented here to indicate the diversity of provision available to women. In addition, there are some other philanthropically-funded initiatives that offer shelter to women. These do not employ workers but provide all basic amenities to support the residents to run the shelters.

To summarise the picture emerging from our analysis so far, in Pakistan shelters for women are seen as a temporary refuge where they can stay until their problems are resolved. This could be in the form of reconciliation, re-marriage or divorce. There is no provision for aftercare work or rehabilitation except for one refuge in Karachi that actively assists women with rehabilitation. This is done in the form of finding work, re-housing and giving financial assistance for a short-term period.

The following shelters run by NGOs and philanthropists were visited. *Dastak* in Lahore which is funded by international donors, *Mera Ghar*, a Christian shelter which is funded by the Catholic church, the *Edhi* shelter house and *Ghosa-e-aafiyat*, which are funded through private donations or in kind support, and *Pannah*, in Karachi which is also funded by international donors.

Dastak is the only shelter in Pakistan that allows all women the freedom to leave the shelter between 9.00am and 5.00pm. Women can stay out later by prior arrangement with a worker from the shelter. In order to protect the woman and the shelter if a woman fails to return at a time agreed with the worker the police will be informed. A list of women residing at the shelter is sent to the local police station every two weeks.

The shelter has an in-house psychologist and a teacher who provides very basic education to young children. Training in, and awareness of health issues and women's rights is organised within the shelter as well as vocational training to empower the women.

The maximum period of stay is three months unless women have legal cases or safety issues that go beyond the three months. The building is protected by two armed security guards twenty-four hours a day. There is also a caretaker and warden on the premises. The address of the shelter is strictly confidential and the shelter has its own van to transport women to and from the shelter for legal, medical, reconciliation and mediation appointments.

The women receive free meals, clothing, and legal representation except in some cases where they have to make a small contribution for obtaining documentary evidence and medical treatment. Those who choose to cook or clean are paid for their work by the shelter. At the time of our visits thirty one women plus sixteen children were resident there, mostly from the Punjab, Karachi and NWFP together with a woman from Sri Lanka. The shelter only has the capacity to admit 30 women. The disadvantage of not turning women away is that conditions, even in this example of best practice, were overcrowded and limited by European standards.

Mera Ghar is a Christian shelter in Lahore run by Christian Legal Aid Assistance and Settlement. This shelter only admits Christian women. The cases are referred mainly through their own organisations, churches and some NGOs. The referrals are initially assessed by a worker at CLAAS and, if accepted, the woman is referred to the shelter. The shelter accepts any Christian woman who is a victim of domestic violence or who has been persecuted as a Christian. Women can stay for a limited period and are offered free meals, education, clothing, legal and medical assistance. Their mobility is restricted except when they have to attend court, have medical appointments, or need to attend local schools and colleges or visit relatives.

This was the only shelter encountered in the study that had a strong emphasis on education. Their aim is to empower women through education which will enable them to have better lives. Although the shelter had the capacity to accept up to forty women and children, at the time of our visit it was under-used. Amongst the cases the shelter was dealing with at this time were those of young women who had been abducted, raped and forced to convert to Islam. There were also two young women present who had been persecuted as Christians and had no-one to go to, and nowhere to go. The shelter had also admitted a small number of young children who had been abandoned by their parents.

Children at the shelter are sent to the local school situated nearby. If young children are admitted without the mother, then one of the residents will be allocated the responsibility of caring for them. If a woman needs any psychological assistance arrangements will be made for her consultation. The shelter manager lives on the premises and is also available throughout the day and night.

Another shelter visited in Lahore was the *Edhi* women's shelter. This was a newly built shelter accommodating young girls and women fleeing domestic violence. The shelter accepts self referrals. It is funded by private donations such as Zakat.

Women are provided with food, clothing, and medical and legal representation. Basic school education is offered in the mornings and religious education in the afternoons. Mobility is restricted except for court and medical appointments. The women have a rota for cooking, cleaning and caring for young unaccompanied children. The majority of the residents at the time of our visit were young girls from the age of seven to fifteen who had been working as domestic servants and either mistreated or sexually assaulted by the employers. Whilst interviewing the shelter manager a young girl approximately three or four years old was brought in. One of the workers immediately took a photograph of the child to send to the newspapers to trace the parents or family. The child was then sent to the shelter to be cared for by the residents. The researcher was told that the child had been left on a bus from Faisalabad to Lahore. Someone had contacted the *Edhi* Helpline and the child was rescued and brought to the shelter by the *Edhi* workers.

The women can remain at the shelter for as long as they want and can leave whenever they want. They are encouraged to reconcile because of the generally held view that women cannot survive without men in Pakistan. There is no aftercare support available to women but women can return to the shelter if they need to. The woman worker in charge said: *"there is no need to do aftercare work because if the women needed our services they can always contact us any time or they can return to the shelter."*

Pannah is an NGO run shelter in Karachi, funded by international donors. The shelter is based in the community and guarded twenty-four hours a day. The shelter's address is also strictly confidential. Referrals are made by NGOs, lawyers and the police. The initial assessment is carried out by the shelter manager and if admitted the women are informed of the house rules. Residents are provided with free meals, medical treatment, education and legal assistance. Mobility outside the shelter is restricted to court appearances, medical appointments and occasionally supervised social outings. In instances where a woman in the shelter is in employment she is granted permission to continue working provided she adheres to agreed times.

The shelter manager reported that she actively participates in key work sessions with individual women and that the children, if not considered at risk, were sent to local schools, although this could not be verified. The shelter runs a vocational skills programme to empower women and help them become economically independent. This was the only shelter that had some trustees actively participating in the running of the shelter. The shelter manager and shelter trustees are said to assist women seeking employment by finding them jobs as cooks or house-maids. This arrangement is only agreed if the confidentiality and the security of the woman is assured by potential employers.

The shelter also accommodates young girls sold for marriage. Young single girls are usually referred to SOS Childrens Village (an international charity) which offers free accommodation and education to orphaned children. At the time of the research visit, the shelter was accommodating two women from the NWFP under threat of honour killing, one child bride from Shikarpur, in interior Sindh, one woman from Azad Kashmir forced into prostitution by her husband, two victims of domestic violence – one from NWFP and the other from Karachi and lastly a woman released from Karachi women's jail under the Law Reforms Ordinance 2006.

The shelter faced challenges dealing with women under threat of honour killings because they were unable to offer any form of protection to these women outside the shelter. Therefore women in these situations had no choices but to remain at the shelter on a long-term basis.

6.4.1 Case study: Rabia

The following case study was of a woman under threat of honour killing.

At the time of her interview in 2006, Rabia was 25 years old and a widow. She had a son who was nearly two years old. She was from the NWFP. Her father was a wealthy landowner and had always encouraged his daughters to have an education. She had been to university.

Her paternal aunt and uncle had been pressuring her parents to give her hand in marriage to one of their sons. During these discussions Rabia had expressed her wish to marry her cousin from her maternal side but the family refused because he was not a 'syed' (direct descendant of the prophet Muhammad). She was worried her parents might force her to marry someone against her wishes and therefore her cousin made arrangements for their marriage in 2002.

After leaving home her father registered an FIR against her husband alleging that he had kidnapped her. The police came to the house and took her husband. The following day he appeared in court and presented the couple's 'nikah nama' (marriage certificate) to the judge who ordered his release.

Her father refused to accept the marriage and pressurised her husband to return Rabia home. Her maternal aunt was in regular contact with them and warned them that her father had hired men to follow her husband. Her husband was also receiving threats from her father. The couple had to move out of town but subsequently returned and secured accommodation above the courts. They believed that they would be safe there and no-one would harm them.

One day in 2004 her husband went out to work and moments later Rabia heard the sound of gunfire. The police came to her room and told her that husband had been murdered. She told the policeman she suspected her father was behind the shooting.

Rabia was told by her brother-in-law that threats had been made against her life. He took her to Swat and contacted an NGO in Peshawar who referred her to a shelter where she stayed for a year and a half.

During this period her father threatened her brothers-in-law. The eldest, a judge, who had supported her during the marriage fled to Canada for a few months following a gun battle outside his house. The police, who had been posted outside his house for six months, could not protect him. On his return to Pakistan he was posted to a different area for his safety.

Another brother fled to Karachi. Rabia's youngest brother-in-law was shot and killed. Her father publicly admitted murdering her husband and brother-in-law but was not arrested or charged.

Rabia's son was born in 2004 at the shelter in Peshawar.

Her father tried to trace her to the refuge and she believed that he wanted to kill her and her son. The shelter arranged for her to move to another city.

While this is a complex and difficult case, the following points can be noted:

- Being a middle class and educated woman did not necessarily make it easier for the woman to live independently
- Relocation within a different region did not necessarily protect the woman
- Influential families have means of tracing and locating women
- In this case the eldest brother-in-law was a judge but even he was unable to protect his brother, sister-in-law and nephew
- The police failed to offer any protection to the woman and her son

6.5 'Islamic' shelters

In addition there is also shelter provision framed within an explicitly 'Islamic' approach.

Ghosh-e-aafiyat is a private shelter in Karachi that is run exclusively by private donations and in kind support. The shelter is run on Islamic principles and offers women free accommodation, food, clothing, medical and legal assistance. The women can stay at the shelter for as long as is needed. The shelter has a security guard at the gate with strict instructions not to allow any visitors. The shelter only accommodates women, girls and young boys. Boys over the age of five are sent to local *madrassas* paid for by the shelter. The four trustees of the shelter come from very comfortable backgrounds and run the shelter on a voluntary basis. They make up any shortfall in the running costs.

One of the trustees stated that:

"The shelter only admits women who are brought or referred to the shelter by someone so that the woman's character can be verified otherwise the woman is not admitted. We do not provide shelter to women who are of 'loose character'".

This means there are no self referrals. The house rules displayed on the wall stated:

- Your honour is our honour
- You are not allowed out
- You will have to pray at fixed times
- You will have to go to bed at certain times
- Only go to Doctors or the Doctor who visits the shelter and
- Only allowed to visit families.

The residents are expected to comply with the house rules. The trustee said:

"On admission the woman's family is informed and advised of the visiting hours – Friday 3-5pm. In the last six months the shelter has evicted two women because they were 'characterless' and did not follow the rules."

The trustee was concerned about the image of the shelter as it was based in the community and needed to maintain its credibility.

The view of the shelter is that as women are having their basic needs met they do not need anything else. They should be grateful to Allah (God) for what they are receiving. They believe women should be disciplined and should follow the Islamic code of life. Another shelter called *Jamaat-e-Himayat-e-Islam* is based in Lahore and is run in a similar manner, though it takes women referred through the courts.

6.6 Comparing shelters in Pakistan

"I don't like being locked up. Women here sit and cry all day and talk about killing themselves but there is no-one to listen to them. It is like a jail here."

Whilst all shelters provide certain services, there are some differences between them and these can be understood mainly in terms of level and source of funding. Generally, privately funded shelters or those with religious affiliations provided better facilities. However *Pannah*, funded by multiple donors, has excellent living conditions and offers more services to the women than other shelters. As for *Darul-Amans*, the above quote from the resident and our own observations indicate that more could be done for women who access these services.

Although there were some commonalities between all the different types of shelters, the quality of provision varied considerably. The residents of some shelters complained about the poor diet they were given, overcrowded rooms and general poor living conditions, not having access to medical treatment, lawyers not appearing at court hearings and restrictions on their mobility.

The range and level of services offered to women, availability of key work sessions (particularly to women waiting desperately to discuss their cases), and general living conditions were all affected by the funding available to a shelter and these factors in turn impacted on the well being of the women.

One of the main problems with all the shelters is the lack of childcare provision. Childcare and education is extremely limited and in some shelters is non-existent. One main factor could be that some of the shelters with limited budgets are unable to provide this care, but even shelters who have sufficient funds do not seem to identify this as a need.

The other service that was obviously lacking was aftercare work with women. This was of particular concern because once women have reconciled or are forced to return to their husbands no contact is maintained with them. A woman resident at a shelter said:

“When a woman goes back to family someone should keep in touch with her because recently a woman from the shelter returned home and her family physically assaulted her and broke both her legs and then said now try and leave.”

It was essential therefore that someone should keep in touch with women for their safety and well-being.

In some cases there was evidence of women desperately wanting to speak to workers regarding their cases but not being allowed access to them for days or even weeks. Although all shelters offered counselling to the residents not all had in-house psychologists. Where a woman was in need of specialist psychological help (for example where she had been a victim of gang-rape, forced prostitution or forced marriage) she would be unable to access this unless there was a psychologist attached to the shelter. A lack of networking between shelters prevented women from accessing services in shelters other than where they were resident.

As discussed below, despite the fact that the majority of shelters did not send children to school, there was little evidence of structured work being done with children. Although some shelters provided some very basic education, children were usually missing out on a much needed education. The majority of shelters did not have childcare workers or crèche facilities. Unfortunately, none of the children in any of the shelters is offered counselling or support.

6.7 Evaluation of service provision

“Service provision for women is grossly inadequate.”¹⁶⁶

Having outlined the range of shelter provision documented in Pakistan, we move now to consider participants' assessments of how well these shelters functioned. There was a consensus amongst all the participants interviewed about the need for much more extensive service provision, particularly in the rural areas. Women from these areas had to travel hundreds of miles before reaching a service provider. The lack of service provision in these areas meant that women were unable to access services when needed and were therefore extremely vulnerable. By contrast, while there are a large number of NGOs in the urban areas these often appeared to be over stretched and under resourced. Some of the NGOs visited and researched were dedicated and experienced at dealing with issues affecting women, but due to funding constraints they had no choice but to limit the number of cases they could take on and represent.

While conducting the fieldwork, the impact of the significant shortfall in resources in preventing the setting up and functioning of services that are responsive, and that can be accessed easily and quickly became clear. All the NGOs claimed to be doing work on violence against women, but it was evident that not all of them had the infrastructure to deal with domestic violence. Some of the NGOs are aware of and understand the issues and legal obstacles facing women fleeing domestic violence, but others appeared to be inexperienced and lacking in awareness and understanding about women's needs. This in itself is not unusual and reflects the spectrum, tensions and dilemmas often found in social care and health support services generally. However this does become problematic when services are extremely sparse, and in the context the rural-urban divide and with a complex legal system as unresponsive as it is in Pakistan. This leaves women in their communities and families extremely vulnerable and unsafe, and reinforces the notion that domestic violence is a private matter.

As indicated at the start of this chapter, legal aid is available to women seeking legal advice and representation. However, there are additional costs that are not covered by legal aid and which women

¹⁶⁶ Interview with director of HRCP, Lahore, on 15. 6. 06

have to pay out of their own pocket. For example, a woman has to pay for documents such as the marriage certificate or the divorce certificate. If she cannot afford to do this she may be forced to wait for years to prove her status.

At the time of our visit to Behdood-e-Niswan in Faisalabad, we met an impoverished woman who had been granted a divorce but did not have the 500 rupees (approx £5) to pay for the divorce certificate. Yet without such documentation women cannot prove that they are divorced. Such lack of evidence may have more serious implications, under the Hudood Ordinances when the women attempt to remarry.

6.7.1 Accessing services

"To access services women have to travel long distances – how will she get there if she has no money?"¹⁶⁷

Women in rural areas often have no awareness of their rights, and in many cases held a variety of conceptions and definitions of what domestic violence means. They were both described as, and indeed discussed in their interviews, tolerating physical violence and verbal abuse because they were conditioned to believe that their husbands have a right to treat them in this manner. It was often said that it is culturally acceptable amongst men to give their wives a slap to teach them a lesson. Alongside their economically dependent status, then it is hardly surprising talk of 'rights' to these women might appear as something that they would find hard to understand.

Further, at a structural level, the urban – rural divide influences the distribution of resources. It would seem that there is little investment in improving service provision for women in rural areas because NGOs are mainly based in urban areas. As a shelter worker put it:

"Lahore is a city and women here are progressive but they are different in the villages. Women cannot easily access services particularly in rural areas where there are no services and women have to travel miles to access services."

From the accounts of service providers in all regions it seemed that NGOs may initially take up cases but they do not have the resources to follow them up on a long-term basis. Rape victims are taken to court but are not offered any support. A resident at a shelter said:

"We sit here by the grid all day hoping that someone will call us and we can share our problems – but there is no-one."

As the director of HRCP described the difficulties:

"...if a woman flees her home where would she live? The shelters usually allow a woman to stay for only three months. In this society women cannot rent houses."

Although women did not necessarily have any idea of what shelters were like prior to admission, once there they encountered difficulties which resulted in them having negative perceptions about the services. The women were told they would receive free legal representation, medical treatment, food and clothing, but (with the exception of food and the quality of this was often very poor) these were not always provided. If such things were provided this was usually done on an ad hoc basis.

There was genuine fear amongst a large number of women of being traced and murdered. Some of the women were unable to attend court hearings because of these fears and said the state did not offer any protection for them. As was seen in the case of Rabia above (case study five), she moved to several different areas and each time was located because of her family's influence.

A further key point, in terms of life beyond shelter provision, is that service providers emphasised how a woman in Pakistan cannot lead a private life because wherever she lives or works people want to know where she is from and her husband's or family's details. The implications of this are considerable. It is one of the factors inhibiting women in leaving violent relationships. Women often only seek out services when they are extremely desperate and vulnerable.

¹⁶⁷ Interview with service provider on 18. 5. 06

6.7.2 Perception of services: shelters and the police.

Participants emphasised that women have little protection, because they are not economically independent and as a result are less likely to be able to bribe or influence those who should be offering assistance. Here it is important to note the perception that women had of service providers, particularly the police and shelters, as this greatly influenced whether they approached these services. Almost all of the women victims/survivors interviewed for the study perceived the police in a very negative light. Participants in the focus groups conducted at shelters in Lahore and Karachi pointed out:

“The police were not even prepared to listen to me – they did not even protect me...If we could get enough money and bribe police, the police would have been standing with us.”

Such sentiments reflect the widespread view of the police as corrupt and open to bribery. But what was especially emphasised was how issues such as domestic violence were not taken seriously and were perceived as a matter to be resolved within the family. In her interview, a worker from an NGO in Karachi said:

“If a poor woman goes to register an FIR she will be told to return home and they will say “What are you doing here?” He will be abusive and say it is a family matter and should be resolved within the family... Reporting a crime is a problem for educated people so how can an illiterate woman know what is happening?”

While women may have had low expectations of the police, many of their perceptions of the shelters were also negative. As one resident at a Government shelter illustrated:

“This is like a jail. They are not going to do anything here – nothing happens. They say they are providing everything but they don’t “

Another resident complained about not being able to sleep and having severe pains and although the doctor was supposed to come and see her, s/he had not arrived. The rigid systems of control generated resentments and criticisms:

“How long can one stay in a shelter? Even if we were allowed to live here for an unlimited period one cannot spend their whole life according to the shelter’s rules and regulations.”

6.7.3 Government vs NGO and private shelters

“The number of shelters available remained grossly inadequate given the needs of women, with experts at several seminars identifying the need for safe housing as the most pressing concern of women facing violence.”¹⁶⁸

In an acknowledged context of shortfall in provision, the NGO sector and privately-run shelters try to provide a safe home for women in a country that offers little protection to them. Shelters were visited in two of the three regions covered by this report. In these shelters, the majority of women were from rural areas. One key difference between NGO shelters and Dar ul Amans is that the latter install metal fencing within their buildings to restrict women’s mobility. The impact on women who have endured traumatic experiences of being placed in a shelter that is meant to provide a safe and secure environment, and which then imposes restrictions on movement, should be considered. The government shelters are still largely regarded as, and referred to as, ‘sub jails’. The conditions could be considered as a contravention of women’s human rights – since freedom of movement and a right to independence and quality provision is greatly compromised.

There are some NGO run shelters that offer similar and perhaps better living conditions than Dar ul Amans, including one shelter in Lahore which is regarded as the first progressive women’s shelter in Pakistan. However, in general, policies and practices of controlling women’s behaviour and restricting their mobility reinforce the customs and practices imposed on women in society at large and limits the decisions they can make about how they live their lives.

Other shelters are set up under Islamic principles. Providers at a Muslim shelter in Karachi claimed that a woman’s life should be defined by Islamic principles. Provision was funded by, and indeed dispensed within, a spirit of charity and the workers felt that women at their shelter:

¹⁶⁸ Human Rights Commission Pakistan – State of Human Rights in 2004

"...have plenty to eat and have accommodation and clothing – what more do they want?"

Many shelters claimed they had written policies and house rules but with almost no exceptions none was able to produce these. There was little consistency in practice between the shelters that were visited. The majority of the shelters saw their role as providing and meeting basic needs such as food, clothing, accommodation, legal representation and medical treatment. Our inquiries generated the response that none of the shelters involved residents on management committees or Boards of Trustees, nor were residents involved in decision making processes.

The shelters varied both in their practices and level of service they provided. At one of the Dar ul Amans a young woman told us she had previously tried to self harm and had been waiting for days to speak to the worker but was told that the worker was busy. She was desperate to speak to her because she did not know what was happening about her case and the frustration and fear of the unknown contributed to her experiencing great psychological stress. Often women were confined indoors and were therefore unable to access other services. Interviews conducted with residents at Dar ul Amans indicated that service provision within these shelters was grossly inadequate.

The majority of shelters restrict women's mobility, often in the name of safety. There might be some validity for this given some of the threats women face, but what this does is to limit women's ability to take some control over their lives. The policy of most shelters is to allow women out of the buildings only to attend court hearings or hospital appointments. This reinforces the male view that women should remain indoors as if they go out they may do something to dishonour the shelters. But the closed character of the shelters has attracted other criticism, including the charge that a number of shelters have developed into brothels.

Although there is recognition of the need to have services for women fleeing domestic violence, it remains the case that such services are developed and delivered in a way that reflects a patriarchal society. Ironically, in offering women fleeing domestic violence a relatively safe place to live, in essence women change from one level of dependence to another. They become dependent on the shelters and the shelters take on the role of the men in families – the protectors and benefactors of women. This gives women very little opportunity to be independent, strive for themselves, and build confidence and self-esteem.

However, there are examples of shelters that try to do things differently and do not view conformity as the solution, unfortunately as a result they often attract unwelcome attention. Dastak, the first progressive women's shelter in Pakistan, has on numerous occasions been both threatened and attacked for providing shelter to women seeking justice. Yet, the accounts of survivors and providers indicated time and again that the two women who run the centre are seen as role models in defending women's rights across Pakistan.

In most shelters visited there were inconsistencies between the workers accounts of service provision and the residents' views of provision. All the shelters visited claimed to provide free legal assistance, medical care, accommodation, food and clothing. However, as one resident in a government shelter said:

"...women are left to die because they cannot pay for their treatment."

Of the women interviewed in shelters several said they were extremely unhappy and wanted to leave. As a result of what the women perceived to be the inadequacy of service provision, some of them had feelings of helplessness and felt suicidal. This was compounded by the fact that they did not know what would happen to them after leaving the shelter with no one to support them.

As regards legal assistance, in many of the shelters women did not have direct access to lawyers and information about their cases was passed on via the workers. Some women claimed that the workers were not updating them about their cases.

Residents at most shelters said there were no social activities other than at religious festivals or when received foreign visitors. One resident said:

"The shelter always makes great efforts when foreigners come to visit "

Another said:

"...what do we get out of it – nothing. People speak to us and go away – nothing changes, no-one helps."

This mismatch between women's and workers' perspectives tends to suggest that, although there were services available to women, these are not consistent or universally available to all residents. Both direct observation and participant accounts indicated that in some shelters women without status or connections, or an awareness of their entitlement, often received a poor service. Many of these women were from rural rather than urban areas.

6.8 Provision after the shelter?

Reconciliation, second marriages or "well wishers" were generally seen as the only solution for women fleeing domestic violence. Even Dastak, the progressive women's shelter, engaged in these practices:

"The Crisis Centre offers mediation and reconciliation if a woman requests."

The term 'well wisher' referred to male friends of women who had come to shelters. These men often supported women financially whilst they were at the shelter and in many cases married them afterwards.

Hence it would seem that women in shelters are limited in the choices they can make about their lives. Most of them are therefore either forced to return to violent relationships or remarry. Key factors here include their economic dependency on men, and lack of service provision and support after leaving the shelters. But policies in relation to working women and regarding children also play a key role. If a woman had children she would be unable to work and provide for herself and her children. The state did not offer any housing or financial assistance except for the Bait ul Mal fund, which is not always easily available. As a result, as one focus group participant commented:

"A woman often reconciles with her husband, returns to her family or re-marries."

None of the women residents at shelters interviewed for the study were confident about finding work or living on their own without being dependent on a man. Some of the women survivors/victims interviewed were intending to remarry for that reason. They were adamant that they were not afraid of working hard to support themselves, but had arrived at the conclusion that they were unable to survive without any support. It is within these material/structural limitations that women elect either to reconcile or remarry.

The government makes no provision for a homeless single woman or a woman with children after their temporary stay at shelters. The woman can apply for rented accommodation if a male accompanies her but participants emphasised that this would make her vulnerable to sexual exploitation. The first question women are asked is 'what is your husband's or father's name?' thus reinforcing the wider assumption that a woman does not have an identity without a man – whether that man happens to be the father, brother or husband. It is therefore hardly surprising that although the perpetrators of violence may have been men, the solution or a way out of the shelters was again via men.

If the whole environment is one of secrecy, threat and intrigue, then it is not surprising that both women and children fail to thrive in shelters and often go on to experience serious mental health difficulties. If physical safety cannot be guaranteed women will continue to seek out reconciliation or opportunities to remarry or secure a 'well wisher', or even return to violent and abusive relationships because they do not see any alternative.

6.9 Mental health support

Although most shelters offered access to in-house counsellors or psychologists, our interviews with residents confirmed that this provision was only available on an ad hoc basis. Some residents who had previously self harmed or were suicidal were desperately waiting to consult or speak to someone about their experiences but found that nobody was available. Physical safety takes such precedence that anything that is invisible and not apparent gets marginalised and ignored. Emotional well-being and mental health emerged as two very neglected areas of service provision. Services focusing on emotional and mental well-being were in vital need of development and these should be accessible and available to every woman entering a shelter if resilience and recovery is their genuine aim.

6.10 Children in shelters

Exploring the provision for, or experiences of, children in shelters was not intended to be a primary focus of this study. However, it was an issue that was difficult to ignore because children figured in important ways for women and were a major reason why women either tolerated or, alternatively, arrived at the decision to flee domestic violence.

All shelters claim to have provision for children but our study found such provision was minimal. Moreover girls and boys are positioned differently. The study documented that the majority of shelters operate a policy of not accepting boys over the age of five. After this age boys are separated from their mothers. On admittance the mother is informed of this policy and has to then make a choice of being with her sons or accepting a place at the shelter. If the woman chooses to enter the shelter her sons are referred to the local madrassas or orphanages. This practice has not taken into consideration the impact this has on the children who may have been a witness to violence. Apart from the trauma of separation from their mother the children may have specific psychological needs because of their previous experiences in their homes.

Although most shelters have teachers for basic elementary and religious education, the children lack properly structured educational programmes. The majority of shelters claimed that they do not send children to local schools because they fear the children may get abducted. Within the shelters, there are no dedicated or specialist childcare workers and no other type of structured childcare provision to give women the space to focus on vocational training programmes.

Some of the residents at shelters visited for the study claimed they had no choice but to leave their children at home because they were unable to financially support them.

The lack of play facilities and opportunities for children, and the fact that children were very often also victims of violence, went unnoticed. Interviews with service providers at shelters indicated that psychological issues for children who have left abusive family situations, or have themselves been abused, are not addressed at all.

As indicated, a range of organisations – government, NGOs and independent sources, provide shelters. The shelters visited were mainly for single women, and married women with children, but there were also some cases of young girls who had been admitted. However, the girls who were allowed to reside at the shelters found that their needs were not always accommodated as the shelters had an adult focus and often struggled to balance their responsibility to the girls and abiding by the law.

An example that illustrates the inadequacies of placing and meeting the needs of young girls in adult shelters was noted on a visit made to one of the Dar ul Amans (government shelter). The superintendent took us to a room where a group of about 7-8 women and children were sitting. A young girl was also in the room. The young girl had been brought to the shelter the previous year when she was 7 years old. The parents had sold her to someone in the red light area. The superintendent said that the girl was physically and psychologically damaged and they did not know what to do with her. She had been through horrific sexual assaults and her internal organs had been damaged. The girl had been medically examined and needed an operation to repair her internal organs. The shelter felt unable to grant permission for the operation in case the girl did not survive. Hence the girl would have to live with no treatment and was experiencing an immense amount of pain.

6.11 Limits to the work of non governmental organisations

There are some significant limits to what the Pakistani NGO sector can achieve - not least to do with the structure and priorities of bilateral funding. The overwhelming picture emerging from our study is that the approach taken by a large number of NGOs is focused on providing short-term welfare services in the form of food, clothing, shelter and support. An INGO participant interviewed for the study in Islamabad commented that *'The approach is very welfarist.'*

The director of a major NGO claimed that *'there are over one Lakh (100,000) NGOs in Pakistan'* but of course these vary considerably in their functions and practices. Many of these are set up and funded through families, philanthropists, religious institutions and INGOs. The ethos of the NGOs is influenced by their funders, many of whom have conservative values and subscribe to traditional views about

gender and gender relations. In such contexts women's honour can be viewed as more important than any violence they experience.

Here it is important to note that although the majority of the NGOs identified and visited for the study worked with victims of domestic violence, very few specialised in women's rights. Many of the service providers consulted were critical of other service providers and described them as being inadequate. Another INGO interviewee took the view that *'services [in Pakistan] are grossly inefficient.'*

Some NGOs however have played a significant part in raising awareness of violence against women and the lack of protection provided by state agencies.

6.12 Harassment of domestic violence service providers

*"Women can't even get out of the village so there's no possibility of getting there. Also there's a sign outside the crisis centre so everyone knows that it's there. Even female workers e. g. legal aid workers who go into crisis centres are harassed; their house have been set alight; their children kidnapped. It's astounding that the address is not even kept secret."*¹⁶⁹

The fieldwork carried out for this study highlighted that some NGOs in Pakistan are working under very difficult conditions and are sometimes implicated in cases. For example during 2005 we met with the director of Struggle for Change (SACH) who had been implicated in a case of a woman whose children had been abducted from her by her husband. The director had produced substantial evidence to the police of the threats made against her and the woman but the police failed to take any action against the husband. The husband was an 'influential' man and bribed the police to register a false case of abduction against both women.

There were other participants in our study who had similar experiences. The director of the Progressive Women's Association noted: *'I was booked under Hudood laws for three years before being acquitted.'* Other service providers recalled being harassed when working at well-known activist organisations. One ex-worker, who was now employed by a major INGO, claimed she was receiving calls every day saying *'your son will be killed'*. She brought this to the attention of a government minister and the Superintendent of Police but was not given any protection.

This type of harassment has wider implications for NGOs and the women they are trying to protect because it tends to limit workers' involvement in cases due to fear of the consequences of their actions.

The interference and influence of politicians to extract information about the whereabouts of particular women is a consistent problem both women and workers in shelters have to face. A service provider claimed: *'politicians think they have a right to get involved in cases and demand information to be disclosed about particular residents.'* If access or information is denied to politicians, the workers are threatened. This has at times increased the insecurity of both workers and women residents. The women are sometimes given pseudonyms to protect their identities. The above worker added that: *'even the guards protecting the shelter are not to be trusted!'*

6.13 International non governmental organisations (INGOs)

The role of INGOs in Pakistan has been quite significant in making some progress towards improving the lives of women in Pakistan. This has occurred through the funding of a range of projects and programmes to raise awareness around gender based violence. These organisations have also supported campaigns such as; the campaign to repeal Hudood Ordinances, against forced marriages and honour killings. They have also developed programmes which aim to sensitise the judiciary and the police to women's rights.

Although initiatives and funding are made available to run short-term programmes, there was no evidence of long-term measures being taken to sustain any changes that may have occurred in improving the lives of women. During the course of the fieldwork the researcher met with INGOs working on issues of violence against women but they did not appear to address issues of housing provision, of children's needs within shelters, or the training and empowerment of women. There appeared to be little consideration of the longer term impact of violence on women and children.

¹⁶⁹ Interview with Deputy Director, Development Services; British Council July 2006

6.14 Comparing shelters in Pakistan and the UK

There are some commonalities between shelters in the UK and Pakistan which will be described here. We shall also highlight some examples of good practice implemented by shelters in Pakistan.

The majority of the refuges in the UK are run on limited funds and experience staff shortages. The refuges' practices are very similar in terms of confidentiality and visitor policies.

Unlike the UK, however all Pakistani NGOs had men involved in services for women. Shelters too had male members on their Boards. The male members did not have any direct contact with women, but it was seen as necessary to involve men in order to gain credence and support. The progressive NGOs also had men working on issues related to violence against women but had women leading on these issues.

Whilst the distribution and quality of provision in Pakistan is in many respects inferior to that of the UK, it is important to note features of practice that are, in fact, better than the UK. Some shelters in Pakistan, for example, offer immediate access to lawyers, counsellors and psychologists. This is generally not available in the UK, where women are placed on waiting lists for referrals to counsellors. As for legal advice in the UK there are sometimes long delays in referring women to lawyers specialising in particular areas of the woman's needs which often results in women not receiving proper advice. One other crucial difference between shelters in Pakistan and the UK is that the former *never* turn a woman away, whereas in the UK shelters do have the option of turning women away.

The chart below illustrates some of the main similarities and differences between shelters in the UK and Pakistan.

Table 8: Comparison of Shelter Characteristics in the UK and Pakistan

SERVICE/PROVISION	UK	PAKISTAN
Childcare	✓	✗
Aftercare	✓	✗
Food	Women have to pay	✓
Medical	✓	Poor provision
Education	✓	618
Employment	✓	Very Limited
Rehabilitation	✗	✓
Counselling	Based on referrals	In-house
Reconciliation	✗	✓
Confidential Location	✓	✓
Visitors	✗	Family (in govt shelters)
Mobility	✓	Not allowed out (except Dastak and Pannah)
Maximum Age for Boys	11	5
Funding Source	Government	Govt, Private, Zakat
Key Worker	✓	✗
Lawyers	Referrals	Immediate
Male Presence	✗	Drivers and Guards

6.15 Overview

Visits to and interviews conducted with residents and service providers indicated that some of the shelters in Pakistan were obviously overcrowded, and with poor facilities. There was a clear division between provision funded by governmental and non-governmental sources. In most cases there was no key worker system, poor working conditions, no case work supervision, and no training or worker accountability. The workers appeared to run the shelters with very little input from trustees except for one shelter where regular meetings were held and communication between shelter manager, workers and trustees took place. Nevertheless, some areas of practice appeared to be comparable to, and even more accessible and responsive than UK service provision, notably in relation to the speed of initial access to legal advice and in some cases to initial psychological support.

Analysis from participants' accounts also highlights that in Pakistan life for a woman after leaving a shelter often means returning to the violent situation she left, remarriage or returning to her family if they will have her. In some cases women are open to sexual exploitation in order to support their children because there are no other provisions available to them.

Overwhelmingly what emerged from the interviews with providers and shelter residents across all sectors of provision is that there are two key obstacles for women seeking shelter that prevent them from living independently: rehousing and financial assistance. Unlike the UK, Pakistani agencies (at both governmental and non governmental organisational levels) do not help women with rehousing or financial assistance after leaving the shelters. In the UK women are offered state assistance whereas no such provision is available to women in Pakistan except Bait-ul-Mal. It is within these limitations that women have to make choices about their future and the future welfare of their children.

However, if adequate provision is made available it is clearly not impossible for a woman to live on her own, although as indicated earlier she will be very visible, under suspicion as a 'lone' woman, and vulnerable to harassment and exploitation. If a woman's basic needs are met (for example accommodation, financial assistance and protection) then a woman can survive.

It is widely known that (notwithstanding their lesser status) women in rural areas are the main breadwinners. If provided with adequate means they work hard to support themselves and their families, countering many of the negative perceptions in Pakistani society about the abilities of women. However, it is presently unacceptable within Pakistani society for a woman to live alone, or as a lone parent. This discourages a large number of women who could live independently as they fear they would be labelled a 'loose woman' and suffer harassment and possible attack as a result. This does not only reflect on their 'izzat' but impacts on their life as well as on those of their siblings and children.

At one of the shelters in particular the class division was apparent and women from poor backgrounds and women from middle class backgrounds had their own separate circle of friends. This class division affects the initial access a woman has to the shelter, her ability to access services once there, and the situation she faces after leaving the shelter. Knowledge of women's rights, services available to victims of violence and access to resources are all issues affected by a woman's socio-economic background.

Finally, it is important to note that the picture of services that has been documented included some of the best examples of practice in Pakistan. Even Dastak, the progressive women's shelter, would benefit from increased funds. The shelter needs refurbishment and a larger building in order to meet the heavy demand on their limited resources. Whilst the crisis centre and the shelter jointly are internationally acknowledged for their work in supporting women, there is still considerable room for service and practice development.

Arfa's case

Arfa's father was in the army. She lived with her parents, three brothers and two sisters at their home in Azad Kashmir. She studied until class 8, after which she remained at home with her family.

Arfa left home after being raped and sexually abused by her father. He started abusing her when she was fourteen years old. He once took Arfa to hotel frequently visited by the family and raped her. Arfa passed out during the assault, and when she regained consciousness her mother asked her what had happened to her, to which her father replied that she had had an accident.

She tried to tell her mother about the incident and the abuse but her mother refused to accept it. Her father then started abusing her in the presence of her mother who did nothing to protect her.

Arfa tried to get help from her neighbours but they all refused to come to her aid as they were afraid of her father and what he may do to them.

In June 2005 she left home because she could not take the pain and suffering any longer. She managed to find 1200 rupees (approximately £12) around the house. Arfa then walked for miles until she came to a house and knocked on the front door to ask for some water. The woman who opened the door wanted to know what had happened to her. Arfa told the woman about the abuse she had suffered over the years by her father. The women made arrangements for Arfa to go into shelter.

Upon arrival at the shelter Arfa filed a criminal case against her father and at the time of our visit the case was still pending.

Arfa's mother is pressuring her to drop the case against her father, claiming that she will not be able to cope if he is sent to prison.

Arfa was very distressed and uncertain about her future. The shelter had told her that once her case was concluded she would have to leave the shelter. She had no where to go and was worried about how she was going to survive.

Chapter seven:

In flight – under siege

This chapter offers a rather different analysis of the material generated from the fieldwork, focusing on the factors identified in participants' accounts that structure women's trajectories to seek safety and protection in Pakistan.

7.1 Introduction

*"The incidents of violence against women are not isolated acts. It must be recognised that it is a manifestation of women's status and of historically unequal power relations between men and women. Violence against women is one of the crucial social mechanisms by which women are forced into subordinate position a vis-à-vis men. Therefore, in all forms of gender violence, whether sexual, physical or emotional, women are found systematically to be victims of violence. It is so pervasive in the family and in the society that it cuts across all class, income, regional and ethnic boundaries."*¹⁷⁰

The fieldwork in Pakistan was conducted to document the routes and various processes involved for a woman seeking protection and support from domestic violence in Pakistan. The study identified and interviewed a wide range of participants (both across a range of sectors of service provision and survivors of domestic violence) to identify and assess the geographical availability, distribution, as well as adequacy of, service provision for women fleeing domestic violence and accessing the criminal justice system. Of particular interest was the accessibility of services to women in terms of their locations and resources.

In this chapter we focus on an analysis of the position of those women in Pakistan who experience domestic violence, and the services available to them through the analysis of accounts generated from the participants about their experiences of the legal systems and service provision in Pakistan. The legal systems include both formal and informal methods of justice, including the Criminal Courts and the Jirgas as well as the impact of different laws on the lives of women. This chapter will offer specific accounts of how these laws impact on women seeking protection as well as their impact on service providers.

To reiterate, this analysis is drawn from:

- One to one interviews with women
- Workers in shelters and crisis centres
- NGOs and INGOs
- The Police
- Government officials (including a Government Minister)
- Members of Jirgas
- Informal meetings including focus groups and events in the three regions covered in the study

7.2 Domestic violence

"We have no laws to protect women from domestic violence. This is a male dominated society and men possess women as their properties"

¹⁷⁰ Bari, F 'The social cost of violence against women'. *The News*, 21 February 1994. Bari, F 'The social cost of violence against women'. *The News*, 21 February 1994.

The above quote, from a worker based in Lahore, reflects some of the difficulties that workers and survivor/victims had in dealing with abuse or violent incidents. There was overwhelming evidence across participant accounts that domestic violence was seen as a private matter that should be resolved between the husband and wife or within the family. The 'private' nature of family life, and a subsequent reluctance to intervene in what are perceived as 'domestic' issues, is something that Pakistani authorities share with their UK counterparts. In the UK it is only in the last two decades that domestic violence has been seen as a crime, and treated as such. However, there are also significant differences between the two contexts, in that domestic violence in Pakistan is not only seen as a private matter, but there is also a widespread belief that violence is an inevitable part of a woman's lot in life. As the programme coordinator from one major NGO in Lahore pointed out:

"The judiciary is gender blind – the judges are hardly aware of domestic violence. They think family values are being broken. For instance there was a judge who said to the victim of domestic violence that she was stupid and unfortunate if she did not want to return home because her husband wanted to reconcile."

She further added:

"The main causes of domestic violence are poverty and customary practices. The problem is that domestic violence is not condemned socially by families. Women are expected to serve men, their families and not discuss their cases outside because of family honour."

As has already been discussed, there is no specific legislation on domestic violence in Pakistan. Hina Jilani, a leading Human Rights lawyer, in her interview for the study, commented:

"The domestic violence bill has been pending since 2003 – nothing has been done about it."

As previously noted, under the Pakistan Penal Code legal action can be taken if a case is registered against the perpetrator of the crime. This was despite the claim made by the Government Minister for Women's Development and Youth that: *'If it is a serious offence then the police will act.'*

From the interviews with the victims of violence, and with service providers, it became very evident that the perception of domestic violence in wider Pakistani society is that it is an acceptable form of behaviour. This belief is reinforced in women's lives at all levels, by family members such mothers, fathers and siblings and by community members. This was confirmed by the Programme Co-ordinator for an agency dedicated to supporting women and missing/kidnapped children in Karachi who said:

"Mothers usually tell their daughters that if they have put up with abuse for all these years then why can't they?"

The Deputy Superintendent of Police at a Women's Police station in Lahore added:

"A woman is discouraged from leaving home because of family honour because if she leaves everyone will hear about it."

Indeed, in the course of conducting the research it became clear that women were generally reluctant to mention that they had been subjected to domestic violence because of the stigma and consequences attached to this. This perspective was not simply confined to the family. There was substantial evidence that this pervaded state agencies such as the police and courts and some service providers. As one worker from a UNHCR described the situation:

"Even in the cities there is no police support. They don't register a case and force the woman to return to her husband. They consider it a private matter. Women don't go to the police station because it is not safe for a woman to go to a police station in Pakistan because they risk being raped or sexually assaulted. I, as a lawyer, would not go to a police station without a male."

Research participants consulted across all the regions in this study stated that in situations where a woman discloses domestic violence to her family, she is told to remain with her husband and if she flees the family home, she will be returned to the violent relationship and told to put up with it. To illustrate this, the superintendent of the Dar ul Aman in Rawalpindi cited a case of a woman under similar circumstances:

"This woman was married for eleven years and had four children but only brought up one of her children – her two year old. Her husband did not do any work because he was the only son and was

spoilt. She worked as a domestic servant. He used to regularly beat her up and each time she went to her family, they would send her back to her husband and say she could not stay with them."

The general view of families presented in the interviews is that a woman should remain within the confines of her home even if she is a victim of violence. If she steps out of the house or seeks legal recourse it is deemed that she is violating the family's honour. The majority of women were seen to persevere with these injustices and maintain the family honour. If they did make the choice to leave the family home it was reported that they are threatened with murder, completely ostracised or disowned by their families. The families were seen to view it as a matter of dishonour if a woman leaves home or goes to court to prosecute an incident. This was confirmed by the Additional Secretary of Culture, Social Welfare, Sports and Tourism of the Government of Sindh who said:

"Domestic violence is a social stigma. Women tend not to discuss it or voice the problems because of 'honour'. The women are afraid of losing their children, and parents refuse to have them if they leave their husbands, and society will not accept them."

From participants accounts' it would seem that domestic violence in Pakistan largely goes unchallenged and is left in the domain of families and communities, rather than addressed through the Criminal justice system. In effect, domestic violence appears to be condoned in order to preserve family honour.

7.3 Women's perspectives

Women at a focus group held a shelter in Lahore described the position of women in Pakistan as follows:

"A woman holds no social status in Pakistan...A woman is extremely vulnerable. People beat her and she keeps crying. There is nothing for a woman if she is not respected by the society. She is like soil, she holds no worth – she is nothing."

Women in Pakistan are a diverse group and embrace differences in class, ethnicity, religion, identity and status. Despite these differences there are some common themes which emerge from their narratives. These are primarily centred on patriarchy, family honour and the use of religion, (mainly Islam). It is in these arenas that domestic violence continues to be perpetuated as a private matter. This is bolstered by contradictory responses in the law and the treatment of perpetrators.

Through our interviews with all the participants we tried to evaluate whether women who accessed services when fleeing domestic violence were ever given choices in making decisions about their future. Most service providers would like to believe that women were given the right to choose, but in reality, there was both direct and indirect pressure on women to reconcile, accept mediation or remarry. The reason given for this was that women had limited choices because of the threat of destitution. As one NGO provider put it:

"A woman has minimal choice – reconcile. There are no rehabilitation programmes, housing for women and the government should take responsibility to provide for these women but they are not interested."

The women interviewed spoke about the limitations of their choices and how their lives revolved around family, within a society that perceived them in a particular role. In most cases women reported that they were forced to reconcile and returned to violent relationships. Concern was also expressed about the socio-economic and housing factors that compelled them to accept reconciliation. But it was not only the socio economic factors that pressured them to accept reconciliation but also the fact that if they defied family values, they were subjected to severe assaults or were threatened with honour killing.

An illustration of the way in which both the law and the justice system can work against a woman can be seen in the following case study. The woman in the case study was falsely accused of murdering her first husband (who had not been killed and was alive) and was remanded in custody. Her daughter was born in a police station and spent the first seven years of her life in jail with her mother. On the day we interviewed this woman she had just been acquitted and was preparing for her immediate release from Karachi women's prison:

"I was married at the age of fifteen years and lived with my husband [who was a] a drug addict. I was married to him for ten-twelve years and was never allowed out. Throughout our marriage he

was violent towards me and I suffered. I had two daughters with him. One day he verbally divorced me and he snatched my two daughters aged two and a half years and three months from me and kicked me out of the house. Soon after I left I was told both my daughters had been sold. I have no idea where they are and who they were sold to."

This case powerfully illustrates how a woman who tries to make a stand against domestic violence can have the law used against her. Although now eventually released, she still has not traced her other children. Her child had also, in her formative years, no life experience other than being brought up in a prison. This experience powerfully illustrates how the values and beliefs of families, the law and Pakistani society ultimately negate any written rights within the Pakistani constitution and remove women's access to justice within the legal systems. In these situations, not only the women but also their children become victims of crimes they have not committed, and are placed in environments that are not conducive to their well being, and are a violation of their human rights.

7.3.1 Experiences of non-Muslim women

The analysis of the experiences of non Muslim women suggests that this is similar to that of Muslim women, but in addition there are issues of forced conversions, threats of death under blasphemy laws and more limited service provision. This is explored later in this chapter. The rise in forced conversions suggests apathy on the part of the government to tackle this problem. There is a pressing need for legislation to curtail this practice.

Non-Muslim women, as outlined in section 5.4.2, do not have the same recourse to the law and as a result are singularly not protected. This denial of protection means that they are more likely to become victims of serious sexual assaults. Since such crimes largely go unchallenged this can be seen to support a norm that non-Muslim women can be exploited and abused, with little response from the State. The women often face double punishment first by their male abusers and then by their families. This was seen in the case of Mahek (5.4.2.2) who was subjected to kidnapping, rape, forced conversion, domestic violence, and rejection from family and finally the loss of her children. Although the shelter and Christian Legal Aid Assistance and Settlement (CLASS) have provided legal assistance and support, the legal system has not given her justice and has failed to protect her. To date no one has been prosecuted for the crimes committed against her.

Moreover it should be noted that, notwithstanding the variations between documented statistics, it remains widely acknowledged that crimes against women are not decreasing, but increasing; and that despite government rhetoric, perpetrators do not appear to be being pursued and held to account.¹⁷¹

7.3.2 Trafficked women and children

"According to a report released by the US Office to Monitor and Combat Trafficking in Persons, Pakistan was declared to be a source, transit and destination country for trafficked persons. According to the report Pakistan was placed on a watch list for trafficking in 2004 because of a failure to provide evidence of increasing efforts to combat severe forms of human trafficking the previous year."¹⁷²

In section 4.6.4 we highlighted the plight of women trafficked internally and from abroad. In 2000 Ansar Burney Trust (an NGO) discovered markets in Sindh province and stated: *'very young girls and women were being sold like animals'*. Trafficked women and girls were usually taken abroad and resold or used as prostitutes. Women who came from abroad had been promised a better life and in some cases were women whose families owed money to landlords and were unable to pay their debts.

Poverty had forced many families to sell their children or give children away for a better life. They were unaware of the level of abuse endured by their children. Camel jockeys taken to Middle Eastern countries have been reported to be forced to work for up to eighteen hours a day.

Although the government of Pakistan has legislation to stop human trafficking it has done little to protect women and children who are abused and treated as commodities.

¹⁷¹ Human Rights Commission Pakistan – State of Human Rights in 2006, http://www.hrcp-web.org/ar_anualreport-06/index.htm, last accessed 18/11/07.

¹⁷² HRCP – State of Human Rights 2004 page

7.3.3 Abandoned women

During the course of our fieldtrips we came across ‘abandoned women’ from the UK. These are women who may have had settled status (indefinite leave to remain) or are women who had lived in the UK as spouses on the initial two years probationary visa. They had been subjected to domestic violence and taken back to Pakistan on some pretext (as for example a woman was told that her mother taken seriously ill), and then left there.

In December 2005 one of the key NGOs working around domestic violence, SACH, facilitated a focus group with female councillors in Gujar Khan (Punjab) who expressed concern and frustration about the large numbers of women from the UK abandoned in Pakistan. They explained that hundreds of women had consulted them, and that they were unable to assist these women. They wanted to know who had a duty to protect these women and what measures the British government had taken to protect the rights of these women.

They expressed concern for women who had been returned and rejected by their own families for the following reasons:

- Poverty
- Family honour – what will the relatives and communities say about them
- The fact that divorce will reflect badly on other female members of the family
- A majority of families believed they had fulfilled their responsibilities of marrying their daughters
- Women were not economically independent and therefore would be a financial burden on their families

The councillors overwhelmingly claimed that if a woman is from a less privileged background then she can end up destitute and may be forced into prostitution in order to survive.

It has to be noted that women who are ‘abandoned’ in Pakistan are faced with serious and real risks to their lives, their health and their safety. Once returned to Pakistan they are denied their basic right of applying for financial assistance from their husband because they are unable to afford the legal costs of instructing lawyers in the UK.

7.4 Family honour

“What is best for the woman is not seen as the foremost issue. What is good for the family is prioritised. Oppression is disguised as protection”¹⁷³

Shame and family honour plays a significant role in limiting women’s choices and not only pressurises women to return to violent relationships but also influences the police, the judiciary, and some service providers, so that women have no real recourse to the law. As the Programme Co-ordinator from Shirkat Gah highlighted:

“It is impossible for a woman to survive on her own. They tend to reconcile or remain in violent relationships because they have no options...Women only flee when it is life threatening otherwise they persevere with the violence.”

A woman at a focus group in a shelter in Lahore also confirmed this view:

“Parents and brothers believe they have done their job once girls are married. They say a girl should live with her in laws no matter what the circumstances. I spent eighteen years of my life miserable.”

The family and society are seen to define both how a woman should live and behave, so that if she fails to fulfil these requirements she is severely punished. These punishments can be in the form of shooting, stove burning or using an axe and are given the name of ‘honour killing’.

“Women are seen as the transmitters of group values and traditions and as agents of socialisation of the young. When group identity becomes intensified, women are elevated to the status of symbols of the community and are compelled to assume the burden of the reproduction of the group.”
(Moghadam, 1994, p.18)

¹⁷³ Interview with the programme manager at Oxfam on 7.7.06

"Thus the family becomes an arena where women at the individual level are constantly negotiating and pushing the margin of familial boundaries and men try to maintain the status quo, at times through coercive means. Women's position within the gender hierarchy of the family depends upon a complex combination of factors. These pertain to class, age, marital status, education, level of consciousness, as well as cultural contexts and rural/urban settings in which they live... they are [however] fundamentally negotiating from a position of subordination and weakness. Thus they attempt to carve spaces for themselves in a setting that is pitted against them" (Bari and Khattak, 2001; p.224).

Making a decision to leave a violent relationship is never easy for any woman, but for a Pakistani woman her family's perception of her and the perception of society emerge as overwhelming factors in her decision-making. She knows that in choosing to flee, she will have to live with a label of being 'a bad woman'. The women's programme co-ordination from Aurat Foundation (NGO) in Karachi said:

"If a woman leaves her home she will not be accepted by the family or society because she will be perceived as a 'bad woman'."

7.5 Economic, political and social factors

"The low entitlement of women due to the ideology of the sexual division of labour becomes the basis for male power over women. However, we do not argue that all women have low entitlement; our assertion is that in all social relationships men have power over women due to their superior material and ideological status. This is the reality of women's lives, which cuts across class, region, ethnicity, and rural/urban divides. Nevertheless, these divisions do impact and determine the nature of power in gender relationships. Then power configurations within the family also constantly change with women's life cycle while maintaining essential male control and power over women's sexuality" (Bari and Khattak, 2001; p.224)

In Chapter five we noted that the literacy rate for girls is extremely low as a result of several factors. Poverty is a major influencing factor. Gender differences are reinforced from childhood, for example, if parents are unable to pay for their son's and their daughter's education then preferential treatment is given to the boys because they believe there is no long term benefit in investing in a girl's education. It could be argued that this is not unique to Pakistan. However what is unique is the combination of poverty, collusion by the State, and notions of shame and family honour which all conspire to emphasise gender differences. In her interview, a resident at a shelter in Karachi insisted that:

"If women were provided with an education this would enable them to earn their livelihoods."

In a similar vein the Ministry of Women's Development, Islamabad, in their National Action Plan report of 1998 stated:

"The gap in literacy and education between men and women and between boys and girls is significantly higher among the poorer households particularly in the rural areas."

The interviews we conducted illustrate literacy levels being particularly low amongst women from rural areas. Out of twenty five one to one interviews with shelter residents, 88% of the women had no formal education and were unable to read and write.

The low rates of literacy amongst women are also influenced by 'family honour'. Educating a woman is sometimes viewed as being subversive and outside the traditional role of a woman. As stated by a resident at a shelter in Karachi:

"My family thought if I get an education in the end it would give them a bad name. They thought I will flee from home and it will ruin their 'honour.'"

Such considerations appear to influence the decision by most families for not allowing their daughters an education because they fear that if they are seen doing something that is not socially acceptable the family will be dishonoured.

A co-ordinator for an Islamabad-based NGO argued similarly:

"90% of women in Pakistan are not educated. She has no skills or money. She can't find a house, a job and live peacefully. The social pressure won't let her. He would kill her rather than let her go. In tribal areas, travel is out of the question for women."

Economically women make up the poorest citizens because employment opportunities are not accessible or even pertinent. Poverty then contributes to illnesses because of the lack of clean water, diet and sanitation. Malnutrition amongst women and girls in rural areas is more prevalent than it is amongst males.

“Pakistan’s maternal mortality rate, estimated at between 300-600 per 100,000 live births, is one of the highest in the world. While the immediate causes for this are medical, the underlying ones begin in infancy and continue through adolescence and adulthood. Factors which further contribute to this situation include malnutrition, general weaknesses, predisposition of infection and exhaustion from domestic and other work overload all influence maternal health”¹⁷⁴

Women’s health was also a common concern for participants because women generally did not use health services for a wide range of reasons that included having a low income or no income at all, a lack of awareness of the health measures available and superstition or suspicion of medical practices. HRCF in Lahore also added that ‘women have no control over their bodies’. This statement was made in the context of the religious, social and traditional constraints on women related to the use of contraceptives and other birth control measures. The Programme Manager from OXFAM similarly pointed out:

“Women are very ignorant about their own health. They sacrifice themselves and do everything for everyone. Because of the three P’s – Poverty, Powerlessness and Pregnancy – women have no control over themselves. If a male relative is not available they cannot go to the doctor.”

7.5.1 Class differences

Women’s status in society depends on the class, region and the urban and rural divide. Irrespective of whether they are from rural and urban areas, women share similar experiences by way of living in a patriarchal society that dictates and shapes their lives.

In urban areas there is an emerging middle and upper class. The women from these areas have generally been through the education system and have the option of working if they wish. It could be argued that it is not impossible for these women to try and lead independent lives. However in Pakistani society women are generally not allowed to live independently or work and the small minority who choose to do so are labelled as ‘bad women’. One of the women we interviewed confirmed this view:

“The world has progressed a lot and the women have been granted a lot of rights but in Pakistan, even now, if a woman goes out for a job, she is considered a whore.”

Maintaining family honour is of paramount importance to women from both rural and urban areas. If a woman is a victim of domestic violence she will put up with the abuse for as long as she can before making a final decision to leave the violent relationship. The women we spoke to raised a range of factors which influenced their decision making and had to be considered before they took any action:

- How would she support herself and her children?
- What would the family think and would they support her?
- Was there sufficient protection available to her if she moved to a different area?
- What were the issues for her children, for example child abduction / custody / maintenance?
- How would she, her children and her family be affected by the issue of maintaining ‘family honour’?
- What options were open to her in terms of accommodation/refuge?

In the course of our study there was evidence that although women from middle and upper class backgrounds appeared initially to have a greater range of options, in reality they faced the same stigma and barriers around shame and honour experienced by women from poor backgrounds. In fact they often stood to lose more if they fled because of their status and privileged positions.

¹⁷⁴ The Ministry of Women’s Development Islamabad, National Action Plan report of 1998, p.32

7.5.2 Cultural/customary practices

"Panchayats and Jirgas do not provide justice to women. They also stand with the powerful."¹⁷⁵

A widespread view across participants' accounts was that men treat women as their property and assume they can discard them as and when they want, as a Lahori shelter resident phrased this issue:

"Men keep and dispose of women like slippers – Have them when you want and dispose of them when you don't."

A resident at a shelter described the life of a woman thus:

"From a young age a girl is told by her parents that this is not your home, your home is when you get married, when she gets married her husband tells her that it is not her home and can ask her to leave – a woman in Pakistan never has a home until she dies."

The picture generated from participant accounts was that women, particularly from rural areas, were not allowed or expected to be emancipated or able to define their lives. They were expected to accept whatever happens within the confines of the home where 'the husband is law'. They were not allowed to discuss any mistreatment outside of the home because this was seen as tarnishing the family honour. Women who behaved in this way were victimised and punished for their behaviour. The honour of the woman and the honour of the family were two major factors in the control, abuse and, ultimately, the murder of women. Women were always reminded about honour whether it was in the context of education, employment, marriage or divorce. Whenever they made any decision they had to take into consideration the impact it would have on the family members. This need to consider honour, and the effect of 'shame' on themselves and their families, is the predominant reason that women tended to remain within violent relationships for many years before making the decision to leave. It was very difficult for women to contemplate an action which would potentially involve being disowned by her family or losing her children.

As discussed in Chapter four, the feudal/tribal laws had a strong influence in determining the decision-making processes within their communities. The Jirgas ignored the criminal justice system and often made judgements which were in contradiction to accepted and basic human rights. Such decisions, as were made in the cases of Mukhtaran Mai and Dr. Shazia Khalid, continue to be taken by the Jirgas throughout the country:

"The committee is concerned that the informal dispute resolution forums (Jirgas) continue to function and take decisions that call for the perpetration of violence against women, despite the ruling of a superior court requiring the elimination of such forms."¹⁷⁶

"The perpetrators, usually local feudal lords, know they can buy or even scare people into silence. In the majority of cases, the culprits are acquitted because they have money and political influence and can therefore buy justice. The fear of being convicted is not there."¹⁷⁷

Under customary practices swara is used to end tribal feuds. The director of an NGO claimed:

"The woman's position is as an object – you can kill ten men and say take my daughter. It is a feudal and patriarchal system. Women are treated as a cow or goat, as animals."

Young girls were used as commodities and were allowed no control in what happened in their lives. This was particularly dominant in rural or tribal areas where mothers were also disempowered within the family and the word of male members of the family was 'law'. In these situations concerns for the girl or young woman are not relevant as the predominant issue is that of male honour.

Some of the most severe examples of domestic violence were seen in rural areas. This was a symptom of the feudal system in those regions and the fact that such systems made it difficult for women to flee violence. Economically, women were often the poorest members of the community with no independent income or means of survival other than reliance on their husbands, fathers and brothers.

¹⁷⁵ Focus group held at Pannah in Karachi on 15.6.06

¹⁷⁶ CEDAW –Thirty-eight session 14th May-1st June 2007

¹⁷⁷ Ebrahim, Z, 'Teenager's Rape – Test for New Women's Law', IPS News Service, 2007, accessed at: <http://ipsnews.net/news.asp?idnews=36453>, last accessed 19/11/07.

Women often have no information about the services available to them and as a result feel that their only option is to remain in an abusive relationship, they fear that in leaving the relationship without a place of safety they could provoke an even more serious attack which could result in permanent physical harm or death. At the focus group in Hyderabad a worker from Phir Bhat (an NGO) from Shikarpur in the interior Sindh spoke about her experiences of working with women in the rural and tribal areas:

“Women are not aware of their rights. If a woman leaves she is accused of being a bad woman. They have nowhere to go and there is no security for them.”

7.5.3 Forced marriages

In Islam a woman has the right to choose her husband, but in practice many women are denied this right. A number of women we interviewed had been forced into marriages against their wishes. It is important to make a distinction between an arranged and a forced marriage. The former involves the consent of the woman even though parents and relatives will have identified the prospective husband. The latter, on the other hand, is when women do not consent and are given no choice in the matter. The decision to find a husband is made by the family regardless of the age of the women. These marriages involve issues other than the attachment of the couple, such as family honour, ownership of land and property and resolution of feuds. In this sense, forced marriages can be seen as confirmation of the view of women as ‘property’ or a ‘commodity’ that initially belongs to the family and subsequently to the husband.

Women interviewed in the study condemned this practice, but at the same time recognised that to resist or say ‘no’ would have serious consequences and as a result many had accepted their ‘fate’. The experience of other women in their communities had led them to believe that the rejection of forced marriages could lead to honour killings, largely because the preservation of family honour was perceived as more important than the life of a sister or daughter.

7.5.4 Honour killings

“My family members want to kill me at any cost. They will only feel comfortable after my death. On the other hand, where can I go? I am alone! It is extremely difficult – perhaps impossible for a woman to survive on her own.”¹⁷⁸

Honour killing is a crime carried as a result of the allegation, or suspicion, of woman’s ‘misbehaviour’. ‘Misbehaviour’ could involve a range of activities but generally any activity which demonstrated independence from the family, or involved relationships with men outside the family or other outside activities, could be seen as prescribed. Families often defined misbehaviour as simply going against the wishes of the family, for example, by marrying a person of their choice. In such situations it is generally seen as acceptable to carry out such a killing, and the family will show no remorse or regret as they believe the family honour is being restored by the death of the person(s) who defied the family code. Some of the women interviewed were living in fear of this kind of reprisal and had to remain in isolation to ensure family members could not locate them.

The Human Rights Watch World Report 2007 states:

“According to Pakistan’s Interior Ministry, there have been more than 4,000 honour killings since 2001. However provisions of Pakistani law that allow the next of kin to ‘forgive’ the murderer in exchange for monetary compensation remain in force, and continue to be used by offenders to escape punishment in cases of honour killings.”¹⁷⁹

7.5.5 Child brides

Whilst there is a law preventing girls under the age of sixteen marrying, this is frequently ignored and girls as young as six or seven have been reported to have been married or promised in marriage. As we

¹⁷⁸ Interview with resident at shelter in Karachi on 19.6.06

¹⁷⁹ Human Rights Watch, World Report, 2007, accessed at: <http://hrw.org/wr2k7/essays/introduction/index.htm>, last accessed 19/11/07, p.302.

have seen in previous case studies, this is done without the girl's consent and even often without her knowledge. Equally, poor parents often sell young girls from rural areas to landlords for a piece of land or to repay their debts. During the field trip in 2006 we met Maria, a child bride at a shelter in Karachi.

7.5.5.1 Case study: Maria

Maria was thirteen years old at the time of interview. She was eleven years old when she was sold and married to a forty-five year old man. Her father received 20-25,000 rupees (approx £250.00). Maria's father worked as a labourer. She lived in Shikarpur in the interior Sindh with her father, mother and paternal uncle.

Maria reported that when her mother first told her about the marriage she was very upset because she did not like the man and she could not say anything. After the marriage ceremony, the man used to come with his brothers and put pressure on her father to hand Maria over to him as he was concerned that Maria's father might sell her to someone else.

One night Maria got up to have a glass of water when she heard a knock on the door. She opened the door and saw two men with their faces covered who snatched her and put her into a car. She was taken to her husband's house, where she was drugged and raped by her husband and his brother for four or five days. After her abduction Maria's mother came to the house but she was denied contact with Maria and given blood stained clothes and told to go away. The mother then contacted a local NGO (Phir Bhat) and they involved the police. The mother accompanied the police to the house where Maria was being held and rescued her. Maria was immediately taken to the courts and brought before a judge.

The judge recommended that Maria should be taken for a medical examination and brought back to court. The medical examination confirmed that Maria had been raped. The judge asked her father to appear in court. He failed to appear and with the help of the NGO (Phir Bhat) and INGO (Oxfam) Maria was referred to Pannah (Shelter) in Karachi.

She spent eight months at the shelter and with the help of the worker was found a job as a domestic servant.

The practice of child brides is an infringement of the UN Convention on the Rights of a Child and is likely to have enormous physical, psychological and emotional consequences for the child concerned. Many of these children are married to considerably older men who can offer land and money to family members. Arguably, this practice also legitimises paedophilia. As the above case illustrates, child brides are subjected to serious sexual assaults and physical abuse.

7.5.6 Inheritance

Under Muslim personal law in Pakistan, girls are only entitled to half the inheritance of boys, and the wives only receive one eighth of their husband's estate. In areas such as Sindh women are forced to 'marry the Quran' to avoid paying them their share of the inheritance. We were unable to find any evidence of laws that have been implemented to stop this practice. One of the participants we interviewed had had to flee and was under threat of an 'honour killing' because she demanded her share of her inheritance from her brothers.

7.5.6.1 Case study: Hannah

Hannah was eighteen years old at the time of interview. She had fled from the Punjab with her sixteen year old sister. She came from a wealthy landowning family. About eight or nine years ago she witnessed the murder of her father by two of her brothers. They killed their father in order to inherit his wealth. Although, her father, in his will, had distributed his wealth amongst the six children, these two brothers were not happy about their settlement. The brothers threatened their mother to make her sign forged documents claiming that all the land, property and money had been left to the two brothers alone. The girls were forced to give up their education and were virtually held as prisoners within their own home

Hannah demanded her share of the inheritance from her brothers who threatened to kill her. She said *'My brothers have no respect for women. They won't think anything about killing women'*. It took her almost one year to escape from the house because it was heavily guarded. One night the two sisters

escaped and walked for a couple of hours and then got a taxi to a shrine in another city, after which they stayed at a Madrassa for a few days. Hannah was then told about a lawyer in Islamabad who could assist her. She contacted the lawyer who made arrangements for their stay at a shelter. She said [President] Musharaff made promises about protecting women, but she could not see it happening. She added that all she wanted was justice.

The inheritance laws reinforce women's positions of dependence and reliance on the family and actually contradict Islamic practice. So even where a woman has been a child bride and her husband dies she often receives nothing and is once again dependent on her birth and extended family.

7.5.7 Mental health issues

*"I just sit and cry all day long and want to kill myself – there is no life for a single woman just death."*¹⁸⁰

Women's economic, political and social circumstances as discussed above have led to increasing levels of mental ill health and high numbers of suicides. The women interviewed who were living in shelters expressed feelings of helplessness and many were depressed and experiencing high levels of anxiety. These feelings were often exacerbated by a lack of activity as women could not move freely about the city or have access to work. A number of women said they felt they would be better off dead rather than live such a life.

Poverty and violence against women has a significant impact on the mental health and emotional well being of a woman. Statistics indicate an increase in suicide amongst women in Pakistan¹⁸¹ and this was reflected in the responses of the participants. Several women had attempted suicide and were thinking of doing so again because they felt they had no future after leaving the shelter. The level of desperation women experienced was stark, and there was a lack of hope or belief that their lives could change in any meaningful way.

Some service providers offered counselling and psychological support. However, although shelter workers and some of the service providers interviewed claimed to offer these services, women who had previously self harmed and others, who were contemplating doing so, told us that they were not offered support.

Many of the women fleeing domestic violence had experienced different levels of sexual assault and/or had been raped. Rape in marriage is not recognised and there is no legal protection for the victims. In talking about the mental health issues of rape victims, Farzana Bari in an article in *The News* (2005) notes that:

*"...rape traumatizes the victim mentally, physically and psychologically for the rest of their lives. They need professional support to help recover from the tragedy. It is usually the responsibility of public-health professionals to provide such support to the victims of rape, but in our country they are hardly trained to deliver such needed service to a victim of rape.... The exemplary to her abuser will be a critical factor in the process of her psychological and emotional rehabilitation".*¹⁸²

The mental health and well being of women in flight is overlooked and not engaged with in a meaningful way. Physical safety and such issues take dominance, so that restricting movement outside a shelter for example, is seen as a safety precaution whilst the psychological and emotional consequences of being 'confined' and the ensuing mental health issues are simply not acknowledged or recognised.

7.6 The government and judiciary

*"...the government is unable to control regular crimes in the society so it is useless to expect anything in favour of women who are considered lowest in the society."*¹⁸³

¹⁸⁰ Interviewed resident at shelter in Rawalpindi on 6.7.06

¹⁸¹ See HRCF accessed at: www.hrcf-web.org/suicide.cfm, for statistics on changes suicide rates broken down by gender from 2003-2006, last accessed 19/11/07.

¹⁸² Bari, F. 'The politico social aspect of rape', *The News*, Feb. 07 2005, p.6.

¹⁸³ Interview with resident of a shelter under threat of 'honour killing' on 19.6.06

The government of Pakistan adopted the 'Convention on the Elimination of All forms of Discrimination against Women' (1996) and agreed to incorporate provisions to eliminate violence against women. Furthermore Article 72 of the Constitution of Pakistan states that:

"When one of the spouses neglects his or her duties to the conjugal union or commits acts which tend to bring danger, dishonour or injury to the other (...) the aggrieved may apply to the law for relief"

Unfortunately, there is little significant evidence to show that these Articles have any meaning in legal or customary practice. As previously stated in section 5.2.1 the Pakistan Penal Code has provisions to prosecute perpetrators of violent crimes. However in order to access these provisions, the police have to agree to register the case and the judiciary has to accept that it is a serious offence that merits prosecution. Yasmin Zaidi states:

"Yet only the most extreme cases, when the victim is horribly disfigured – burned alive, eyes gouged or nose chopped – receive media attention and enforce reaction from law enforcers. Otherwise the police and judiciary both prefer to dismiss domestic abuse as a private matter."¹⁸⁴

As discussed in Chapter four, although in principle there is provision for women to access the legal system, in practice it often fails to protect them. An example of this is legislation such as the Hudood Ordinances, which exists in contradiction to the Constitution of Pakistan. To use the word 'justice' in the context of women's experiences and their attempts to resolve issues of domestic violence is a misnomer. Overwhelmingly the accounts of women tend to emphasise that there is no 'justice' when speaking out about domestic violence. Our findings illustrate that the judicial system is plagued by gender bias and the belief that domestic violence is a private matter, as illustrated by the following comment from a programme co-ordinator for one NGO:

"...the Judiciary too needed gender sensitising because they also treat domestic violence as a family matter."

7.6.1 Government's response to violence against women

"It is the responsibility of the state to eliminate the socio-cultural and economic basis of violence and protect all its citizens from all kinds of transgressions without distinguishing on the basis of sex. It is believed that gender violence can be prevented or at least substantially reduced if there exists a social and political will to make this happen."¹⁸⁵

Although the government has taken some technical measures to improve women's rights, there is ample evidence from this study and others that it has failed to protect women from violent crimes and enforce legislation to punish the perpetrators of these crimes. International pressure on the government to improve women's human rights has resulted in the government signing declarations calling for an end to discrimination and violence against women.

To further comply with international agreements the government set up 'The National Commission for the Status of Women (NCSW) in 2000 'for the emancipation of women, equalisation of opportunities and socio-economic conditions amongst women, and elimination of all forms of discrimination against women'. The NCSW has a more limited mandate than was originally envisaged and in effect has a recommendatory role only. There is no requirement for it to be consulted with regard to policy development or law making and it has no enforcement powers.

In his interview for the study a judge, who had been involved in the discussions, stated that each province will have a 'Musaliyat Anjuman' in every union council. Cases of domestic violence are to be taken to Musaliyat Anjuman and their task is to bring about arbitration, reconciliation or mediation. The panel of this committee has three members who will be selected from the Insaaf (justice) committee. They are non elected members and not attached to any political force. The participant noted '*...the general opinion is that there must be a woman on the panel but the Local Government Ordinance simply states that there may be a woman.*'

¹⁸⁴ Zaidi, Y, *Pakistan Scan*, accessed at: <http://www.worldsindhi.org/women'sRight/Violence%20Against%20Women%20in%20Pakistan%20-%20UNIFEM.pdf>, 2003, last accessed 19/11/07.

¹⁸⁵ Bari, F, 'Social cost of violence against women', *The News* 21 February 1994.

The government's commitment to improve service provision for women has resulted in ten further crisis centres being opened. However the existence of these crisis centres does not mean that the quality of provision has improved or even that women now have more choices or access to safe places. As described in Chapter four the government introduced the Women's Protection Bill in December 2006 as a result of a long campaign by human rights activists and international organisations that demanded the repeal of the Hudood Ordinances. The religious factions in government opposed the repeal of the ordinances and, instead, the ordinances were only amended.

The material generated by this study strongly indicates that Government response to domestic violence is, at best, piecemeal and at worst tokenistic. The Government does little to challenge the Jirgas and the use of Swara and, through male networks, pressure is applied on Government officials to back down from making any meaningful intervention.

7.6.2 The judiciary

Earlier chapters have presented evidence suggesting that the judiciary largely treats domestic violence as a private matter to be resolved within the family. Women are often discouraged from taking legal action and if a woman leaves home she is reprimanded by public agencies and her community and is often forced to return to the violent relationship. The law enforcement agencies and the justice system are reluctant to take action against the perpetrators of violent crimes against women. Many of the judges dismiss women's testimonies and tend to be biased in favour of the man. This attitude is a contravention of articles 25 and 27 of the Constitution of Pakistan but our participants reported that it happened on a regular basis. The male dominated nature of public institutions was a real difficulty in pursuing cases, as one lawyer who worked for a large NGO said: *'the judiciary is male dominated and the lower judiciary is particularly gender biased and needed sensitising'*. As we have previously noted in 4.4.3 these difficulties are further compounded by the parallel judicial system.

A powerful narrative of the way the system impacts on women can be summarised by the following statement which was made by a participant in the focus group at the Dastak shelter:

"Pakistan is a male dominated society where we hardly know about women's rights. At Dastak the good thing is that they make us realise that we are as important as men. I belong to an enlightened family but I was married to a man with a conservative background. I sacrificed my life for the sake of my children and tried to live with him but he kept torturing us mentally and physically. In our society a man is free from all obligations – both moral and social. He does not have to leave his father, mother, relatives – he keeps all his relations intact. It is the woman who is made to leave everything. My family is willing to support me with a condition that I leave my kids. My brother is also a father but he, my father and mother say they would welcome me only when I come to them without my children. This is quite unfortunate that they are supporting me conditionally."

This woman was a graduate and had aspired to work after her marriage.

7.7 Role of the police

"...the Police are scared of taking cases on because of the repercussions"

"The role of the police is to protect all its citizens but in Pakistan women are discouraged from seeking protection from them. The police treated domestic violence as a family matter and told the victims to resolve the matter within the family. The police are reluctant to take action against the perpetrators of these crimes. If a woman does go to the police station to report a crime she is made to feel guilty about depriving her children of a home. Police are not interested in domestic violence cases. No legal action is taken in domestic violence cases. If cases are referred to the police they too reconcile the couple and treat it as a family matter. The current systems are – under the 'Hudood ordinance' you need 4 witnesses in a rape case who have to be Muslims. How can the law be fair? The police are very negative and don't take the issue of domestic violence seriously e.g. if a woman reports an incident the police will say "you must have done something wrong" again blaming the woman.

The first quote, from a retired judge, and the second, from a worker at a crisis centre, illustrate the difficulties women had in seeking help from the police. Participants stated that women were afraid of reporting crimes to the police because they would not be believed and many could not afford to

bribe the police and they feared hostility and misogyny from the police. Equally, from their knowledge of other women's experiences, many felt that there was also a serious risk of being raped when attending a police station. There were also difficulties for women in speaking to strange man about their experiences. The police were viewed very much as being part of the problem and often advised women to return home and not pursue a case. There are some exceptions, such as Madadgar 15. This is an emergency service offered by the Police who are expected to respond to an emergency call within 15 minutes of the call being made. However, we only noted this service being advertised in Islamabad.

In an attempt to address these issues female police stations were set up several years ago to encourage women to report incidents of violence. However these were not successful and several reasons were offered to explain this. One reason cited was the under-resourcing of these police stations, but what was also raised was that female officers were no better than male officers in their treatment of women complainants. It was suggested that it was common practice for female officers to tell women to return home. Women also reported that they were afraid that these officers would inform their husbands of their whereabouts as this had happened in other cases and women had been further abused for seeking help from the police.

Police corruption and attitudes was another common experience reported by women fleeing domestic violence. As one human rights activist noted:

"Wealth can buy anything and women are not wealthy therefore the police will not get anything from them so why should they bother about them. It's all about economic power."

Bribery within the police force seemed a common practice and was used for a variety of purposes. Bribes were offered to register false cases, have cases withdrawn, and release perpetrators of serious crimes. As a result women participants reported having no confidence in the police or other state agencies. The weak economic position of women often meant that they were unable to offer bribes to get justice and their male partners were often in a far better economic position to secure the co-operation of the police.

A spokesperson from HRCP (Lahore) stated:

"The police are hostile; they don't accept that women have any rights to protest – they are defenders of husbands, brothers and fathers. They were loyal to the men and supported them because they believed women were dishonouring their families and had to be returned home or punished. By allowing and accepting acts of violence against women the police were collaborating with the perpetrators to retain family honour and deliberately prevented women from seeking justice."

The attitude of most police officers was reported as one of hostility towards women fleeing domestic violence. The police were seen as subscribing to the view that women should not leave home or take any action against the perpetrators. When the police did offer to take action it was usually in the form of offering to mediate or to reconcile the parties.

As has also been documented elsewhere in this report, it is common for the police to refuse to register FIRs in cases of domestic violence because of the emphasis they place on reconciliation. This emphasis does not give confidence to victims/survivors and as one shelter resident stated:

"If only we had the money and bribed the police they would be standing with us. The only ones that get justice are the ones that have money and power."

If the police are the agency of the State and in this role fail to afford women the protection needed, it is hardly surprising that domestic violence continues to be an unchallenged crime. It could be argued that collusion between the government, police and judiciary supports the view of domestic violence as a private matter.

7.8 Ethnocentrism, racism and discrimination

Minority communities are disadvantaged because they are victims of racism and discrimination. Although the Pakistani Constitution speaks about freedom of religion and coexistence, in practice it fails to implement this principle through legislation. Discrimination in legislation and within the political structure undermines the contribution and participation of the minority groups in Pakistan. Women

from minority communities are victims of sexual violence, forced conversions and can be subjected to accusations of blasphemy. In addition to this they face discrimination in employment and education.

The government has not yet taken steps to introduce legislation prohibiting such discrimination. Further, as already noted, some current laws are discriminatory against minority groups.

7.8.1 Discrimination against minority groups

Christian women are discriminated against by wider society both because of their religious affiliation and as victims of sexual violence. The organisations consulted for the study indicated that the majority of their service users who were Christian were from poor backgrounds. They largely had no education and had experiences such as forced conversions, abduction and domestic violence. There is only one shelter in Pakistan for Christian women and due to a lack of facilities the bishops had provided shelter to some of the victims. This shelter places special emphasis on education and vocational training for and believes it is important to empower women through skills in order to make them financially independent.

The director of this service reiterated the now prevailing view emerging from this study that women accepted domestic violence as a normal way of life. She further reported that the women also faced similar problems to those of Muslim women, for example, accessing documentary evidence of marriage or divorce. When fleeing their homes they were not able to access these documents, and many were not aware if their marriages were ever registered. The women were, therefore, unable to prove their marriage or divorce and this became an obstacle at later stages when the woman had to apply for legal or welfare assistance.

The government of Pakistan has yet to deliver on its commitment to protect minority communities, particularly women who are the victims of kidnapping, sexual violence and trafficking. The government is aware of the abuses of human rights of minority women, yet measures in terms of legislation against discrimination, or to pursue the perpetrators of such hate crimes, has not yet been pursued by the authorities in Pakistan.

7.9 Awareness raising and women's activism

Participants in the research stressed the difficulties for women who fled violent situation in adapting to life outside of the family and community. Women in Pakistan were not encouraged to make decisions or choices and their lives were largely shaped and directed by male family members and the values of their families and dominant community. The family defined certain codes of behaviour for a woman from a very early age, so that women learnt to accept whatever decisions were made on their behalf without questioning them. In circumstances where a woman does challenge or disagree with decisions taken on her behalf she can be subjected to severe physical violence and endangers herself physically.

The emancipation and empowerment of women is perceived as a threat to a society dominated by religion, custom and tradition. Women activists who have spoken out and challenged the discriminatory practices and laws are labelled as 'infidels' and run the risk of physical attack and ostracism as we saw in the case of Samia Sarwar. However, it is important to acknowledge that in spite of the threat to their safety, there are women who are organising to challenge misogynist practices and laws in their society.

7.9.1 Raising awareness

Several NGOs are involved in raising awareness of women's rights. For example, Oxfam is running a three year programme ending this year (2007) focusing on honour killings, and SACH was running Legal Clinics and Women's Clinics (domestic violence and women's rights) in rural areas funded by United Nations Development Programme. However, whilst these programmes are having localised impact, there is much work to be done in order to increase literacy rates and general levels of education in order to empower women.

A key route for changing attitudes is raising awareness and education. All the providers interviewed argued that change in society could only take place if there was widespread attitudinal change. They argued that the way a society views a woman and the treatment she receives cannot be transformed

unless people understood that what they were doing was wrong, and the reasons why it was wrong. For example a Tribal Women's Association interviewed described how their workers go into rural areas and use religion to challenge people's behaviour and attitudes. This form of educational awareness would not be threatening to the people from these areas and they would pay attention because it is cast within a religious frame.

7.9.2 Creative and visual arts

One of the most effective methods of raising awareness of such issues as honour killing, forced marriage and domestic violence is through creative arts. Visual and performing arts are used in both rural and urban areas to bring people together to discuss a range of issues. The Interactive Resource Centre travels all over the country to raise awareness and takes its performances to the most remote areas in order to highlight the situation of women. The input from organisations working in the field of arts has made a positive contribution to making women aware of their rights and the discriminatory laws that affect them.

Another effective method of raising awareness is through the media. Islamic scholars, politicians, academics and human rights activists have all contributed to discussions on the television. For example, a series of debates were held on the Hudood Ordinances which were televised and watched and followed with great interest.

The newspapers are another key medium through which both liberal and conservative contributions are publicised. As noted earlier, the press has also been responsible for highlighting cases of violence against women in Pakistan, both nationally and internationally.

Unlike Pakistan, the UK does not use the media or creative arts in the same way in raising awareness of violence against women. The contribution of the media and creative arts has gone some way to helping women fleeing from violent relationships. Although the UK might be advanced in the context of its response to domestic violence, and certainly in relation to service provision, it might be argued that there is much that could be learnt from the Pakistan experience in the use of arts based approaches to tackle awareness raising around domestic violence. Arts-based approaches are used in the UK with regard to mental health, disability and work with children and young people. The Pakistan experience suggests that this could usefully be extended to work with women fleeing domestic violence.

7.9.3 Women's activism

The Women's Action Forum was first formed in 1981 to protest against the introduction of discriminatory laws against women. Most members of the forum were from elite families who were able to resist the Zia government from introducing discriminatory practices that would compromise their civil status. Members of the forum mobilised and led public protests when General Zia ul Haq introduced the Hudood Ordinances. The group's aim was to strengthen the position of women in society, and was central in challenging the various interpretations of the Islamic law.

7.9.4 Critical voices – women councillors

The increased representation of women in local government has started the process of involving women in issues of women's rights. During the fieldwork the researcher met with eight female councillors from the Punjab who were actively involved on issues affecting women in their areas. In their focus group discussion, it was noted:

“As far as female representation is concerned it is a farce. Even though we are councillors we have no power or funds to carry out our work. Male politicians do not take on work or issues affecting women. Although, we are unable to influence any change within the political structure we take our roles and responsibilities very seriously.”

These councillors were working with women across a range of issues, for example forced prostitution (women forced into this by their husbands because of poverty), rape, forced marriages, domestic violence and abandoned women.

In their interviews they described the challenges they faced as women in their local communities. For instance, when they attended meetings in town or out of town or arrived home late the communities would accuse them of being 'bad' women. Even though the women lived with their families, allegations were made against them impugning their characters.

They further emphasised that men who were in a position of power, such as the nazims, were doing little to forward the position of women. The councillors argued that they were being used as token gestures to show that things had changed or were changing for women but on the ground it was very different.

The councillors were particularly concerned with the issue of "abandoned" women. They felt strongly that the UK should take responsibility for these women, and the women to be given their full rights.

7.10 Summary

In drawing together the various strands with regard to the Pakistan focus of this study, the overwhelming view from all participants, both survivors and providers across a range of governmental and non-governmental services, is that women in Pakistan fleeing domestic violence have very few options open to them. The outcome of their cultural worldview and understandings of gendered roles and positions were repeatedly discussed as meaning that flight is the last thing they would consider. The contributions of the participants indicated that the strength of religion and family within Pakistani society, combined with the corruption of state agencies, makes flight an untenable option unless the woman or her children are at risk of serious injury or death. This lack of choice is compounded by a lack of support and service provision and the lack of work or life opportunities after time in crisis accommodation or shelters.

Sana's case

Sana's mother died when she was only seven months old. She was left in the care of her father, who was a drug addict. Sana studied until class five or six.

She was sexually abused by her father and brothers from a very young age but could not recall the exact age at which the abuse began.

At the age of eighteen, Sana's father arranged her marriage to a man in Lahore. After her marriage she was told by her husband that her father had sold her to him. Her husband took her to 'Heera Mandi' (red light area), and forced her into prostitution. The men she met at Heera Mandi offered to take her to Dubai to continue her work there, but she clearly felt that they had their own motives and refused their offers.

Sana worked as a prostitute for five months, after which she fled to her sister's house with 500 rupees (£5). Sana could only stay at her sister's for five days as her sister was afraid that her husband might come after her.

Her sister took Sana to a lawyer in order to get an order to get admission for her sister into a Dar ul Aman. Sana's initial application for an Order was refused by the Judge as he believed that she was planning to run away with a younger man, but Sana persuaded the Judge that she was married and wanted a divorce from her husband.

Sana was eventually offered accommodation at a Dar ul Aman, but her suffering did not end, she had many sleepless nights and spent most of her time crying there. She spoke about killing herself and having no future. She said:

"What is the life of a woman when she loses her mother at such a young age, her father and brothers abuse her, she's then sold and married into Hera Mandi, and her life is always in the hands of others?"

Sana said the only way for her to survive is to turn to prostitution because she has no-one to go to.

Chapter eight:

Understanding Pakistani women's experiences of domestic violence

8.1 Overview and rationale

This is the first of three chapters which draw on the interviews conducted in England and Wales with service providers, including legal practitioners in both the not-for-profit and private sectors, the Home Office, refugee community organisations, police representatives and Pakistani women 'service users'. Much of the contextual background in Chapters one to three is supported and amplified by this analysis. This analysis is presented thematically and highlights the continuing barriers Pakistani women face in the UK when trying to access essential support. Whilst previous studies raise issues about Pakistani women accessing service provision (Batsleer et al, 2002, Chantler, 2001), the accounts presented here demonstrate a range of additional difficulties and potential dangers that are faced by women seeking refugee protection. Indeed, it is a matter of some concern that many of the themes addressed below continue to impact on all women nationals who seek refugee protection against domestic violence.

It is significant that the overwhelming majority of participants across all sectors and disciplines, and Pakistani women themselves, consistently raised the same issues and concerns. This is an unusual outcome for any study and demonstrates the very specific, yet shared, anxieties and frustrations of a range of agencies in dealing with domestic violence and women's asylum issues.

Many participants expressed concerns about how services 'break down' particularly when women's needs are at their most critical. They referred to the disjointed working relationships between voluntary organisations, social services and health professionals which have contributed to this failure. They also identified lack of access to resources, such as NASS funds and the particular problems associated with the 'no recourse to public funds rule' which further indicates how the system of immigration control heightens women's vulnerability to harm.

The asylum dispersal system administered by the BIA¹⁸⁶ (which moves asylum seekers around the country on a no-choice basis) can take account of cultural needs when seeking to place individuals. However, it can also disregard these needs when confronted by other priorities. This can create great challenges for service providers in more rural or isolated areas. In North Wales, for example, service providers described their own isolation from other organisations and services that could assist in supporting asylum seekers. The geography and demographics of the region, and a lack of cultural reference points, compounded the alienation and isolation of Pakistani women service users in the area.

This geographical and cultural isolation has a negative effect on the ability of women asylum seekers' to navigate the system and to link across relevant systems and agencies, which are often separated by large physical distances, in an increasingly shortened time frame.

It is disappointing, then, that we were unable to secure an interview with NASS. Given the difficulties of obtaining resources for women with insecure immigration status who have experienced domestic violence, and given the ensuing sense of isolation, their non-response could be interpreted as an indication of the level of engagement within the asylum support bureaucracy with this indicative client group and its support and welfare needs.

¹⁸⁶ Previously the National Asylum Support Service (NASS), for ease of reference, because all participants continued to refer to the dispersal and support system as 'NASS', we have adhered to this acronym in this chapter

8.1.2 Outline of the analysis

This analysis begins with an examination of several problematic concepts which many participants alluded to in their interviews, in particular concepts of 'culture' which are often relied on to formulate understandings and responses to domestic violence. This leads in the analysis to an exploration of the ways in which women and other participants defined or identified forms of violence, and how notions of shame and denial underpinned the decisions women made about whether to leave or remain in violent circumstances. The influence of community connections within Pakistan, within the UK and trans-nationally, is considered, as are perceptions of 'lone' women, women belonging to particular socio-economic classes, and non-Muslim women. Perceptions of the legal position for women in Pakistan are explored, as are the ways in which participants perceived the nature and viability of internal flight. The chapter examines how these perceptions are played out in case work and service provision.

The analysis progresses to look at service provision in the UK with particular reference to the regional picture, the relationship between NASS and domestic violence, the 'No Recourse to Public Funds' rule, the availability and quality of interpreters, and the police and legal services. A number of specific issues are examined relating to evidence in asylum cases and the problematic nature of what could be termed a 'culture of disbelief' within decision-making bodies. Finally, a number of key issues are considered that were highlighted by participants in relation to the impact of the asylum system on women and their children.

It is noteworthy that throughout the interviewing process in the UK, participants consistently referred to notions of honour, shame and revenge in their accounts. These themes are explored in further detail in Chapters four to seven.

8.2 Pakistani women: conceptions of culture and domestic violence

8.2.1 Culture as an explanation for violence against Pakistani women

The difficulty of using cultural conceptions of domestic violence against Pakistani women is that such an approach may allow cultural notions to 'explain' and therefore marginalise women's experiences of abuse. Previous studies provide a succinct analysis of the racist and stereotyping dangers of explaining domestic violence in this way, and which may work to absolve service providers where they fail to respond to need (Batsleer et al, 2002). Earlier discussions addressed the complex interplay between patriarchal, structural and cultural frameworks and their legitimisation of domestic violence, thus underlining the dangers of 'blaming' culture or cultural practices alone. Participants commented on a broad range of socio-cultural factors, which place Pakistani women in a position of vulnerability from the outset and govern how women do and do not take action against violence. Such factors include: the nature and role of family structures, the commanding status of men in their various familial and community roles, and 'rules' which severely restrict a woman's ability to move freely without a male escort.

Equally, the societal view within Pakistan that violence against women is a 'fact of life' are often believed to emanate from women themselves. Gender discourse suggests that women internalise and reinforce such views; nonetheless, these perceptions have in turn inhibited and prohibited women from describing fully their experiences. A Pakistani woman participant explained during an interview that when she sought support from her mother-in-law following her husband's violence, she was told:

"He is your husband, my husband used to hit me and was abusive therefore I too should just accept it – this was normal."

Another Pakistani woman put it this way during her interview;

"My husband treated me badly and I just used to tolerate it because I used to think when I got married, I believed...if you spend a life with someone you have to make some sacrifices."

It was only after she left the marriage and sought legal help that she described the violence she had tolerated, including the attacks on her during her pregnancy.

The behaviour of service providers in the UK has also been identified by participants as a key factor in propounding 'culturalist' explanations. A refuge worker described during her interview how the police had often referred Pakistani women's cases on to particular Pakistani communities, thus by-passing

other services in the belief that it was inherent within their culture to attend to 'their' women's needs, without considering whether such action was appropriate or indeed dangerous. In their unwillingness to intervene, whether due to complacency, or to a desire to avoid being regarded as culturally insensitive, service providers can unwittingly reinforce cultural perceptions of Pakistani women by making assumptions about their needs and not responding to them as individual service users.

Interestingly, it was during an interview with a Pakistani woman participant that the difficulties associated with such 'culturalist' explanations of domestic violence became apparent. 'Patriarchal' concepts emerged, prompting a rather different discourse to inform our understanding of Pakistani women's experiences. When this woman's husband was questioned by a male relative about why he was beating her, the husband explained:

"...you have no idea how to control a woman...;"

During the interview the woman went on to explain:

"...he said if he did not control me I would go off with other men and this was a way to control me."

The husband justified his violent behaviour on the basis of needing to 'control' his wife, and by extension, needing to protect his honour. Similarly, in the following extract, which identifies three male relatives as perpetrators of violence to a Pakistani woman and her mother, the woman conveys the dominance they exerted over her mother's destiny:

"My father was very violent and whenever I intervened to stop him from hitting my mother he used to hit me too. My grandfather encouraged my father to hit my mother. On one occasion my father took out a gun but my uncle said don't kill them so easily – give them a slow and gradual death."

The examples demonstrate that culture alone is not enough to explain the violence that the Pakistani women in this study had experienced

8.3 Defining violence: denial and shame

The gendered way in which Pakistani women's lives have been shaped, and the interplay of socio-cultural norms referred to above, have clearly contributed to the ambivalence and the shame-induced secrecy which underpinned women's descriptions of their experiences. Two recurring concerns emerged from our interviews. First, many Pakistani women do not recognise some of the behaviour, aggression and ill-treatment they have been subjected to as violence, or alternatively, they seek to deny or reject it. This is illustrated in the following extract from an interview with a woman participant:

"My father-in-law...he used to swear at me...never anything else...My husband had never hit me but he had thrown a chair at me..."

The woman did not necessarily perceive swearing as violent or abusive and tended to minimise her experiences of violence.

Second, a key feature underpinning a Pakistani woman's denial or shame is her struggle to balance the need to maintain her own dignity against the perceived humiliation and disgrace of exposing 'private' family matters to agencies which can be hostile or uncomprehending. The difficulty of balancing such issues, whilst experiencing violence or abuse, put enormous pressure on the women. Participants often described how they developed thoughts of self-harm and suicide. One woman explained how she tolerated the violence whilst she 'thought about death all the time', she imagined killing herself by drinking bleach or setting herself on fire, acts which she was aware would further induce dishonour and disgrace for herself and her family.

The way in which the woman understands her experience is key within asylum cases, as the preparation of statements and the process of gathering evidence relies on the collation of information from women, as well as from external sources. Legal practitioners in particular raised concerns about the inability of their women clients to recognise 'ordinary' forms of abuse such as 'being 'pushed' or 'slapped around' as violence, which is exemplified in the women's own descriptions in the interview extracts above. One participant, a barrister who specialises in asylum law highlighted this issue from a legal perspective:

"Asian women lack an understanding of what constitutes domestic violence from a victims point of view"

During our interviews with Pakistani women, many cited the poor performance of day-to-day domestic tasks as provocations for violence from spouses, yet at the same time they were reluctant to identify such reactions as forms of domestic violence. Instead, they indicated that their silence and obedience denoted the preservation of 'honour'.

Most participants however expressed the conviction that the women's silence was attributable to the shame and dishonour they experienced for behaving as 'bad wives'. At times the only way in which they could make sense of their experience of violence was to see themselves at fault within the relationship, and they would often redouble their efforts to be a 'good' wife by keeping issues of violence or abuse within the family. They noted that when women did discuss forms of violence and abuse, whether 'ordinary' or extreme in nature, often they 'normalised' certain forms of ill-treatment as integral to married life, for example, marital rape, which was regarded as something that simply happened to women as a matter of course.

The fact that many Pakistani women apparently fail to recognise particular types of violent behaviour as 'violence' or, indeed, deny such descriptions, was reported as presenting many participants with dilemmas and challenges in how to proceed with cases (or investigations). They described, for example, their inability to gather evidence, or to ask for information which might then enable them to identify suitable care. A worker at a refugee community organisation explained the difficulty she experienced when trying to advise a woman about her legal options:

"Trying to explain to her that one of her options was to claim asylum was difficult because it's not my job to put words in her mouth and it was difficult to find out if she felt safe to return. Even talking about it she got very upset because it was the first time she'd thought about return I think and what the difficulties might be...Having to tell her that the only way she could claim asylum was to go to Croydon or Liverpool when it was the first day she'd been out of the house and the control of the family and I was saying she had to get a train on her own to Liverpool, and then a taxi, and then talk to immigration officials, the poor girl was terrified."

In this example, the woman was arguably too distressed to comprehend the implications of her circumstances, a point which in itself demands careful consideration. The example raises highlights many issues in the collection of evidence for case work. As many participants pointed out at different stages of being interviewed, cultural awareness training, is an essential tool to avoid critical errors in gathering information and enabling appropriate intervention. Significantly, service providers' misplaced fears of being perceived as racist, or gender-specific cultural norms about acceptable behaviour, could work to close down women's access to services.

8.4 Factors which influence Pakistani women's decisions to flee

"It is very hard for women who leave their husbands, because they will hunt them down wherever they are. Because of that the woman doesn't leave because he is beating her, she leaves because he is killing her."

It is apparent from this quote (provided by a small Muslim women's organisation with a geographical remit across the whole of Wales) that choices and options for this group of women appear to be extremely limited and are only exercised in the most extreme circumstances. There was widespread agreement among participants that most Pakistani women do not have even a basic awareness of the option to leave the family home in the event of domestic violence, let alone to flee outside of their geographical area. The participants believed that women's lack of knowledge of other options meant that most Pakistani women simply did not confront domestic violence. In some regions, for example in the Sindh region, the notion of women leaving male and familial control was understood to be particularly sensitive (see also Chapter four). Moreover, the dominant role of families, and in particular their inter-connectedness, was described as a feature of Pakistani life by a law centre adviser:

"In Pakistan the family is the basic unit, you have to be part of it and so there is greater pressure on women to put up with things. Families are also really inter-connected and the pressure is to keep quiet and keep information to themselves, its not surprising that they don't report incidents."

This reflects the limitations on women's autonomy to access even basic information about self-protection, compounded by high levels of poor education and illiteracy among women. However it also provides insight into the deeply embedded 'culture' of male and familial domination over Pakistani women, a characteristic not exclusive to poorer uneducated women.

Participants generally agreed that from the point of view of the family from which a woman has fled, her reputation and honour will forever be tarnished. Yet whilst the honour of the family may be severely damaged, the harm is not irreparable and could be reinstated with action against the woman. As a result, should she ever return, or should they succeed in bringing her back, the perpetrators would become her interrogators and prosecutors in their quest to retrieve family honour. A solicitor based in the Midlands succinctly described these methods of administering justice:

"Women are expected to live and die in the same household after they get married and not leave, if they leave they will not be accepted back into the family, they can be shunned by their own families and friends and not accepted in society. The families often feel forced to redeem their honour by killing them or forcing them into marriage with another man. It's a very tribal attitude that sees the women as a chattel and if she misbehaves you have to punish her and by doing that you prove you are honourable and you value your honour. In Pakistan honour is more than your life, people take it very seriously, recognition of that is very important."

Despite these issues some women do leave violent relationships, unfortunately the practitioners who participated in the research felt that the Home Office was likely to treat the situation with suspicion and disbelief. They believed this was not only because fleeing is held to be contrary to the 'cultural' norm, as described above, but also because of the 'culture of disbelief' which many participants believed continued to dominate Home Office practice.

8.5 Inter-connected communities, state agents and surveillance in Pakistan

The way in which information is shared between families, between communities, across regions and countries was still, in the view of many participants, little understood and underestimated by the immigration authorities in the UK. The nature of inter-familial relationships alone prevents many women from seeking help, as one participant, an adviser in a law centre explained:

"Families are also really inter-connected and the pressure is to keep quiet and keep information to themselves, its not surprising that they don't report incidents."

This extract from an interview with a local authority support worker illustrates the difficulty of escaping these connections, and highlights how misconceptions about the nature of these can result in an inappropriate removal and return:

"She kept saying she wasn't safe there, that they had connections and would get her if she went back and she is back there now, going from one place to another, as far as I know, just to keep alive. Her sister keeps in touch with me and she says that she is very frightened and is not safe, but this wasn't taken into account by the court. She was staying with her parents but they were getting threatened so she had to move and stay with another relative but that's not a solution because it's only a matter of time before they find her there, and they will hurt her or kill her."

Many participants highlighted the strength and influence of male personal connections, of the passage of information by word of mouth and the active community links both across regions and trans-nationally. Men were described as 'adept networkers', even as 'low-level operators', quickly able to link in with a range of information sources. Families used travelling businessmen, Islamic groups (who themselves possess considerable authority and influence over communities) and corrupt elements within the police, the army and judiciary. As a result, participants found it understandable that women did not, as a rule, independently approach the police in Pakistan on domestic violence issues. A solicitor explained:

"Women find it difficult to go to the police in Pakistan, they are going in to a station to report a rape and they may well be raped by the police officer."

Moreover, participants emphasised that men who have money are able to gain ready access to this informal tracking system which is enhanced by corrupt police and judicial staff. In the words of one service provider:

"...If you have money in Pakistan anywhere it is no problem to hire men, big men, who will do the work for you... Money talks in Pakistan; money has a power to make people speak."

Whilst much of the above commentary reinforces previous discussion on women's subjugation, it becomes evident that, when women are considering practical measures to reach safety, these interconnections can significantly impact on their ability to make decisions about leaving.

8.6 Inter-connectedness of Pakistani communities in the UK

"There are lots of connections and people may well find out where women are, even in this country."

This quote, taken from an interview with a legal adviser, amplifies the issues raised in the preceding section. Many participants spoke of the difficulties of 'hiding' in the UK, suggesting that for some women the UK is not necessarily 'safe'. The asylum process, particularly the dispersal system, draws attention to asylum seekers arriving in established local communities and a woman claiming asylum will also be subject to such attention.

The unofficial role of Pakistani men in monitoring and regulating Pakistani communities enhances the dangers for Pakistani women asylum seekers, and particularly heightens their visibility as 'lone' or 'unaccompanied' women. Participants described how this led to additional difficulties when disseminating information to address domestic violence within Pakistani communities. The director of a national refugee community organisation described the barriers they had encountered:

"We've always found that when we are trying to get information into those communities that they run women's groups but that the groups are often controlled by men and they aren't going to allow you to talk to the women if you are talking about domestic violence. That's an issue, it's really hard to get into communities."

These mechanisms of control have had direct consequences for workers. Some support services are either run by, or employ women of, Pakistani origin to work specifically with Pakistani women on domestic violence issues. One such worker graphically described the hostility she herself has been subjected to, and how eggs and tomatoes had been thrown at her window by members of the local community to express their disapproval of her work. This can present locally based, culturally specific, services with many dilemmas, notably, whether they can continue to offer direct and open support or whether 'covert' methods of reaching women should be developed. Either way, community-led hostilities which seek to undermine services for women, and issues of personal safety for workers within those services, have policy implications for all agencies involved in addressing domestic violence.

There was an alternative, more positive role, which participants raised as being played by some communities. In some cases, neighbours or acquaintances (Pakistani or not) were instrumental in encouraging and supporting women to access information and to contact services, thus demonstrating the value of publicising and promoting informal community links. For example, during interviews with Pakistani women, they described how, as spouses in the UK who had fled violent marriages, they sought and received help from 'friends', from supportive 'relatives' and even a 'worker in a local clothes shop on the high street'.

8.7 Lone women: living, travelling and working

Participants endorsed the prevailing view that Pakistani communities viewed a woman living or travelling alone in Pakistan with suspicion. A woman living independently would have a range of negative assumptions made about her based on her behaviour and lifestyle. In turn, being thought of 'badly' by wider society effectively legitimates harassment of her. Certainly her 'loneness' in itself exposes her to conjecture, as expressed by one legal practitioner in the voluntary sector:

"Just being single itself signals so many things to a community. If you don't have male relatives around you it signals to them that you got yourself into trouble or there's something going on."

Many participants queried whether the UK authorities grasped how unacceptable it is amongst members of the Pakistani community (both in Pakistan and for many in the Pakistani diaspora) for women to live alone, particularly without male support. A law centre adviser explained that:

"The concept of a single woman living on her own is very alien over there, you'd have to live with family really, particularly for young women, living on their own, it doesn't happen there, it's just not acceptable."

A Pakistani woman participant described her own experiences of surveillance:

"Richer women are often associated with immorality generally and there would be resentments and their movements would be very closely watched. There's such scrutiny of women who are living on their own, as a woman living alone there I was monitored."

Another woman participant highlighted this form of legitimised harassment:

"If a woman does live on her own people will consider her to be a bad woman and she will have men following her about who think they can do anything with her – there is no protection for women."

Participants expressed similar concerns about the treatment of women in Pakistan who work, and the frequency with which women in all forms of employment experienced sexual harassment. Another woman participant spoke of her experiences in employment:

"...when I worked in the pharmaceutical industry men would look at me like I was a loose woman."

The extent of surveillance of women and societal intolerance of their attempts to lead independent lives is indicated in these examples and appears to be indiscriminate, irrespective of their circumstances.

8.8 Women and class

"The distinction between middle class and poor women is a real red herring."

This view, expressed by the director of an international NGO, typifies the views of many participants who spoke of the Home Office's ongoing misconceptions concerning the ability of women perceived to be privileged, by virtue of education or family wealth, to leave violent circumstances. They described how Home Office case workers often refused claims on the grounds that Pakistani women from affluent or well-educated backgrounds were either less likely to be subjected to violence or, conversely, were capable of independently taking action against it. They discussed how this claim usually leads the Home Office and immigration judges on appeal to attack the woman's credibility. Many participants across all sectors echoed a counter-view that women from wealthy backgrounds often face particular risks which are directly connected to their affluence. For example, they are more likely to be quickly traced because of the greater resources available to those who seek them.

However, after much consideration of this question, the widespread response was that the situation of a Pakistani woman in relation to safety and/or pursuit bears no direct relationship to her class. In the words of a solicitor who specialises in asylum law:

"If she's an illiterate village girl, the idea that she could go to Lahore or Karachi and rent a place and get a job is just inconceivable."

The solicitor implies that class or economic hardship is a factor in the issue of relocation, yet another participant, a women's support worker, herself of Pakistani origin states that:

"I have a very good family, very liberal, but I cannot work (in Pakistan) like this. In this country I can have meetings with the police or sort out a woman's problems with another worker. In Pakistan, if I am sitting for hours and hours with a man in a room there would be talk... they think you are crazy because you have no one to control you, no man, so what sort of woman must you be?"

There was significant discussion on the Home Office's misplaced assumptions concerning the motives of women from poorer backgrounds, which was clearly very wearying for some legal practitioners:

"...if they say they are poor and from a village they just assume they are economic migrants and women's cases are not getting fully investigated."

The overwhelming consensus among participants was that these misconceptions are framed by generalised notions or stereotypes to judge the credibility or legitimacy of a case and the 'culture of disbelief' which permeate decision making at the Home Office.

8.9 Non-Muslim Pakistani women

Few participants had direct casework experience of supporting non-Muslim Pakistani women. Some had developed a general awareness of the additional barriers faced in Pakistan by non-Muslim women when attempting to reach safety or access support. A number had direct experience of working with, for example, Ahmadiye women, or Pakistani women of the Christian faith. They described the further ill-treatment suffered by these women due to their non-Muslim identity, and the way this identity is exposed by the explicit demand of official 'systems' and bureaucratic functions in Pakistan for information about a person's faith before access to any form of support can be allowed.

As discussed in later chapters, and in numerous country reports already in the public domain, non-Muslims have been subjected to considerable ill-treatment in Pakistan. The following quote, from an interview with a housing support worker in Wales who had worked with an Ahmadiye woman, describes how the 'double persecution' these women face places them in an extremely vulnerable position:

"I mean there were only certain areas she could go to in Pakistan because of her religion, then she'd be a single woman with three children in the Ahmadiye community and questions would be asked about where her husband was. She was stuck really, because if she went to a place in Pakistan where she could practice her faith they'd find out everything."

It can be inferred from this that the woman did not even have the option of living amongst non-Ahmadiye Pakistanis, an inference which is supported by current documentation, including Home Office country reports on the ill-treatment of non-Muslims in Pakistan.

8.10 Perceptions of the legal situation in Pakistan for women

There was general consensus amongst participants navigation of the Pakistani legal system is unduly complex, and that the system is applied unevenly and is particularly unjust in its application to women. Whilst discussion on the legal system and the judiciary was ultimately limited to general comments, the overall response indicated that the authorities in the UK did not attach sufficient weight to the relationship between the law, its uneven and discriminatory practice and the dominating influence of customary practices in Pakistan. A legal practitioner based in a law centre explained:

"In the tribal areas there is customary law as well, which is the law that they are governed by...they won't accept civil law in areas such as the North West (Frontier Province); if you are a woman there you won't be protected by civil law."

Another law centre legal practitioner summarised the situation as follows:

"The courts and the police tend to think 'well it's bad, but it's not that bad'. They don't seem to realise that there are anti-women laws and that they are enacted; in effect the state is malevolent."

Whilst this issue is examined in detail in Chapters four to seven, it is important to note the commonality of the perceptions expressed by the different participants with respect to the situation in Pakistan.

8.11 Internal relocation

Discussion on internal relocation provided valuable insight on the range of perspectives across all sectors, with one underpinning feature: the extent of the commonality of these perspectives.

All participants (apart from the Home Office) stated that it would be difficult, if not impossible, for a lone woman, with or without minor children, to live safely and independently in Pakistan. Whilst the situation of the woman might vary from case to case, the experience of legal practitioners handling the relevant evidence supported these doubts about the viability of internal relocation. Apart from the difficulty of obtaining work and accommodation in her attempts to settle into a new community, participants concluded that a lone woman would be regarded with considerable suspicion. The dangers associated with the inter-connectedness of communities, and the complicity of the police in the way in which they service individuals within communities, have been highlighted above and heighten the ensuing dangers of internal relocation.

Equally, Pakistani regulations require that all citizens carry an identity card, a rule which was identified as posing particular obstacles for women trying to relocate within Pakistan. A legal practitioner explained:

"You see when they arrive back in the country they have to get an identity card and then in order to access any government institutions you have to show that ID card and it has your husband's or father's name on it."

Furthermore, in a context where information can be readily bought by bribe or influence, participants stated that the identity card system might compromise women's safety and even prevent them from accessing the limited services available. The practical barriers to internal relocation are summarised by the Director of an international NGO:

"...You have to get someone to guarantee the accommodation and there is little or no accommodation, particularly in Lahore and the smaller cities. Number one there's no rental accommodation, number two landlords are terrified of sitting tenants, number three people are terrified of anything which might be seen as 'inappropriate' and there's an assumption that a woman on her own is somehow scandalous. If a woman comes and says I want to rent your place, it's going to be lots of questions like 'why are you here, who do you know, what is your job?' and if you haven't got someone who can give a guarantee you will not get accommodation.."

These barriers do not distinguish between wealthy and poor women who were 'on the run'. Both groups were identified as being vulnerable to arrest, ill-treatment, abduction and murder, and whilst affluent women are considered to be more 'visible' and therefore more likely to be pursued, poorer women are vulnerable to trafficking and exploitation by the sex industry and the illegal drugs trade. The director of the international NGO put it in the following terms:

"If you are upper class you cannot go and live just anywhere, you stick out like a sore thumb and it would be socially unacceptable. Automatically there would be questions asked, they would recognise what she was from her surname, her behaviour and would ask questions about why there were not 'protectors' and why she was alone and the conclusion would be that she was 'bad'. That assumption has no class differentiation and is applied to all women. For the women of the elite internal flight can be even more difficult, they are more visible and the husband will have more power, resources and connections. If her family aren't backing her then she is done for, he can just go to the police and tell them to let him know when she turns up. With a woman from a lower class it will very much depend on her husband's contacts."

Participants portrayed the ongoing struggle with the Home Office and the immigration judiciary on internal flight as a significant battle. Even when a woman's account of violence is believed, and even when her evidence on internal flight is compelling, many legal practitioners stated that the decision-making authorities put up considerable resistance to accepting the evidence. Participants concluded that they are unwilling, rather than unable, to recognise the potential harm that will arise if women are required to relocate internally.

Participants reported that the courts appear willing to consider the problems posed by internal flight where children are involved. While this presents tactical opportunities for legal practitioners, a shift of emphasis towards cases involving women with children would seriously compromise the entitlement to protection of Pakistani women as a whole.

The following chapter examines how participants expressed the intersection between these representational issues and the provision of services to women as asylum seekers and as immigrant spouses.

Saiqa's case

Saiqa was from a very poor background and had five brothers and three sisters.

She was married to her second cousin. Saiqa cannot remember how old she was when she was married, but thinks she has been married for approximately seven to eight years.

Saiqa's husband was a manual worker. He was a very possessive and insecure man and believed that she was having affairs behind his back. He used to keep Saiqa locked up in the house and failed to provide for her and the children. He would beat her regularly, and also tortured her by making her undress and electrocuting her with a wire. On one occasion Saiqa's husband poured kerosene over her legs and set her alight and then proceeded to beat her.

Saiqa went to the Police to register a FIR against her husband. The Police were so shocked to see the condition that she was in that they referred her to a hospital, where she stayed for three-four days. During her stay in hospital her husband visited her and threatened to kill her unless she withdrew her complaint.

On the 4th day of Saiqa's stay at hospital her husband came and took her away. The Police were unable to trace her husband. It was during this time that the husband persuaded Saiqa to withdraw her complaint. She appeared in Court and told the judge she had forgiven her husband and was returning home.

After returning home her husband continued to physically abuse her. On one occasion Saiqa's husband had beaten her up so badly that when she woke up, her clothes were full of blood, and her mouth and nose were bleeding. Before going out to work he threatened her by telling her to 'sort herself out' or he would kill her.

After having lunch, Saiqa's children asked her to run away before their father killed her. Saiqa went to the hospital and reported the incident to the Police and registered a FIR against her husband. Her case was widely publicised by the media because of the serious injuries she had sustained.

Human rights activists got involved in her case and made arrangements for her stay at a shelter.

Chapter nine:

Service provision, and the difficulty of 'evidencing' violence

This chapter provides an analysis of views expressed by participants on service provision in the UK and its impact on Pakistani women. It draws attention to the unevenness of service provision, inconsistencies within NASS practice, and particular difficulties for women and providers posed by the immigration rule on 'no recourse to public funds'. It also highlights key problems associated with services provided by the police, interpreters and legal practitioners. This chapter comments on views concerning the treatment of evidence in Pakistani women's cases and highlights particular problems experienced by women from different backgrounds (such as educated women, 'poor' women, non-Muslim women and 'lone' women). This includes a discussion on evidential problems associated with how women describe forms of domestic violence. Linked to this analysis is commentary on country reports and expert evidence. Finally the discussion on evidence is considered in relation to the perceived 'culture of disbelief' within the Home Office.

9.1 Service provision: an overview

Largely rooted in the charitable or voluntary sectors, services for women also included statutory services such as the police and the NHS. Services specifically for women who left domestic violence situations were consistently described as poorly resourced, thin on the ground, over-subscribed, unsympathetic, culturally unaware or culturally inappropriate. These were described as being at their most inadequate at 'crisis point' by a worker based in a refugee community organisation in the Midlands:

"...a woman who has experienced domestic violence has all the usual problems of money, where to stay etc, but if you are an asylum seeker you've got all the worries about your asylum claim and your immigration status on top, and the fact that you've no access to resources. I've even known of some cases where women have gone back [to the abusive relationship] because it's been so difficult for us to find her somewhere and she's spent all day in the office while we are trying to get them accommodation and at the end of the day they start to question whether they are doing the right thing. I mean if you've left somewhere and it takes a minimum of nine hours to find you a place to stay for one night and then you have to go back the next day to find somewhere else you might start to question whether it was worth it."

This participant spoke about the experiences of women asylum seekers and women who have been subjected to the rule on 'no recourse to public funds' (NRPF) and succinctly identified key underlying problems which impact on both categories of women; the rigidity of service providers, lack of resources, lack of safe shelter and women's insecure immigration status. This bleak summary of the state of UK services for this group of service users presented clear parallels with the state of service provision in Pakistan, examined in Chapters four to seven.

Women's refuges and the police described their services as the access route to a range of other providers, including lawyers, social services, and health practitioners. However, participants discussed how the process of navigating the system of service provision meant that, on occasion, women could access up to fifteen different services before reaching an appropriate form of support. As a result many women abandon the process and participants also described how many services were not always 'obvious' to Pakistani women. This exposed the inadequate framework within which some organisations define their services and raised questions about Pakistani women's perceptions of their particular needs.

Cultural tensions and ‘clashes’ within service delivery were also highlighted, a point illustrated by this participant, a London based refugee worker:

“There was another lady who was here, who said that she was brought up in Pakistan to think that men were superior to women and you just wouldn’t communicate with men on an equal basis.”

This drew attention to how Pakistani women experience cultural alienation and also develop a sense of cultural ‘wrong doing’ by leaving their relationship and speaking to men in different contexts. Fears of this kind of ‘wrong doing’ often led women not to seek support. During the same interview, the participant described how many service providers lack an understanding of these issues, indicating gaps in awareness and a need for training:

“...and all of a sudden you are in England and you are fighting for your life here, and you are communicating with men on a daily basis, male housing officers, solicitors and social workers and she felt that they didn’t understand.”

As highlighted in previous chapters, these difficulties in practice within service provision may be contributing to concerns about under-reporting of domestic violence.

9.2 The regional picture: unevenness and lack of service provision

The scoping exercise and the interviews drew attention to the lack of uniform practice within service provision across different regions in the UK. In some regions, there appeared to be a high level of partnership working between health and social services, the police, and charitable organisations, demonstrating the success of the ‘passport to other services’ route described above. However, interviews conducted in areas such as North Wales, where women asylum seekers are dispersed into rural communities, presented a more barren landscape. Service provision was described as thin on the ground and unresponsive.

Some participants described their experience of barriers to access to certain services, such as those provided by GPs. The following quote from a worker in a Midlands based refugee community organisation illustrates the point:

“Every organisation has people [workers] who are difficult, or can be reluctant to help clients who are refugees or asylum seekers, but generally we have a good relationship with other services and access to health services is generally pretty good. I think the problem with GP’s, when we have them, is often with receptionists who just aren’t clued up and either haven’t got the information or haven’t read it. But if you work with them they can get better, it’s about pointing them in the right direction.”

The quote reinforces the need to work with staff to raise awareness in working with a diverse range of service users.

One participant, herself a local authority domestic violence support worker, also commented on the dual role that social services performed, highlighting the particular difficulties associated with their role as enforcers of immigration control:

“Although social services have a duty to help the family under the children’s act, the stance they are adopting is that they can go back and that they don’t have to go back to the same city and she will be safe. They will offer them plane tickets, because it’s still a cheaper option....”

In the view of most participants, this conflict, between their duty of care and their statutory obligations under immigration legislation, combined with the pressures of managing limited resources, has led social services throughout the UK to prioritise their obligations to ‘police’ asylum seeker clients. Participants were not able to provide any examples of ‘good practice’ within social services.

9.3 NASS, women’s refuges and domestic violence

Participants described the disruption to women’s lives brought about by the NASS dispersal system, as well as its interference with case work management and disruption to women’s support needs. Furthermore, although NASS has a policy on protecting women asylum seekers who experience domestic violence whilst asylum claims are pending, participants highlighted the continuing contradictions and lack of clarity about whether NASS will fund bed spaces in women’s refuges.

Many women's services identified the additional problem of inconsistencies in practice across different regions in the UK leading to confusion about NASS's position. A refuge worker explained the problem in the following terms:

"If the woman is an asylum seeker she only has access to NASS support and won't be able to access the refuges or services that could give her the kind of extra support she needs. NASS will try and move a woman temporarily away from the area, but that's not always possible. It's difficult to get them to move the woman sometimes. I've only managed to get NASS to pay for a place at a refuge once, but that was quite a while ago and I've not managed since."

NASS would not be interviewed for this study, thus preventing clarification of current NASS policy and practice.

9.4 Service providers and the 'no recourse to public funds' rule (NRPF)

The overwhelming majority of participants identified the NRPF as a major contributor to the hardship and injustice experienced by many women with insecure immigration status.

As explained in previous chapters, NRPF becomes relevant when a woman who came into the UK on a spouse visa leaves her spouse because of his and/or familial violence. She may consider an application under the domestic violence rules or a claim for asylum. She will have NRPF unless she succeeds in a domestic violence application under the immigration rules. Alternatively, unless she registers a claim for asylum, she will not be entitled to financial support and accommodation under NASS. She is likely to be a situation where she has no state support, faces homelessness if not already homeless and no financial means of supporting herself (although technically allowed to work under the immigration rules, in the experiences of most practitioners and the researchers in this project, the majority of women in this situation will not have been permitted to work by male spouses and/or their families). The following quote from a Pakistani women's organisation in Wales elaborates on the dilemma a woman in this situation would face:

"...if a woman has left the house and has NRPF she cannot get a refuge and money. If the woman walks into here and she has been abused and says she wants to leave the house I call the police, then the first thing is shelter and food and if I look at her passport and there is no recourse to public funds on it I know she is stuck. She can get the safety because the police are there but where is she going to stay?"

Another refuge worker described the cost of providing services and the hardship resulting from shortfalls in resources where a woman client is subject to the NRPF rule:

"The rent for a room here is £150, so if you are not getting funding for the space that's coming out of refuge funds every week. On top of that the woman needs clothes, food, things for the children, and on top of that you can be spending £20-30 a week on services like the language line. I think you can say £250 or so a week that is coming out of refuge funds that hasn't been accounted for from any funding source, and that's for every woman we support with NRPF and that can continue for much longer than the usual six month stay"

Participants widely recognised these injustices and felt that existing immigration laws did not protect women effectively against domestic violence, which, in turn, rendered women unable to leave violent relationships and denied them access to services. The UK state's role in creating structures which perpetuated women's ill-treatment became apparent during the course of this research, as did the role of the UK's states' agencies, notably social services, in supporting these structures. Furthermore, these emerging themes again drew attention to the UK state's role in maintaining immigration legislation which is detrimental to women and how this parallels the Pakistani state's endorsement of the Hudood Ordinances which are also detrimental to women.

9.5 Interpreters and translation services

Numerous difficulties in the delivery of interpretation and translation services were raised during interviews for this study. Participants indicated that there were fundamental flaws in the design and delivery of translation services and these needed to be urgently addressed.

Quality issues remained unresolved for many participants but were often linked with other structural problems. Legal practitioners for example described how clients regularly raised concerns about

the skills of interpreters but lawyers were tied to limited resources and tight time frames to submit evidence, they were often prevented from carrying out checks to ensure accuracy and quality. This remained a critical issue for many service providers who relied on interpreters to accurately translate oral or written testimonies.

Participants spoke of how legalistic terms such as 'asylum seeker' increased many Pakistani women's alienation from services. They identified the role of interpreters as critical in facilitating women's understanding of their legal situation and that standards of interpretation had a direct bearing on how women presented, how they offered information, and how they described experiences. Many stated that there were serious shortfalls in interpreters' skills to extract powerful and persuasive testimonies.

Furthermore, for some participants, delays in providing interpreters signified a lack of urgency and a lack of will to offer protection. The quote below, taken from an interview with the director of three women's refuges, highlighted how delays contributed to women often 'cooling' during the period of delay, a known effect in domestic violence cases which some have attributed to low conviction rates:

"Right from the very word go when they need to interview a woman they can't do it until they have an interpreter and the interpreter has to be someone police approved because they have to know the law. So there's a delay and that delay will then continue happening all the way through. There's this issue with domestic violence, its proven that there is a four hour opportunity after an incident where a woman is very open to getting support after that she starts to cool off.... there are going to be cases that slip through the net because of the delay."

A policewoman interviewed for this study described how the police had to wait up to two days on occasions for interpreters to attend stations; other service providers complained that these were delays which were instigated by the police. A worker in a refugee community organisation amplified this point:

"The police also seem to use certain interpreters and they can take time to get to the area, they come up from all sorts of different places. I've known them use interpreters from London and it can take hours for them to arrive."

Some participants attributed delays to the desire to ensure access to 'known' quality interpreters; however others indicated that this was often due to bureaucratic inflexibility and a lack of will on the part of certain services. Some relied on telephone interpretation services for emergencies, subject to resources to pay for them; however all of the preceding comments pointed to the unresolved clash between the need to quality assess interpreters and the need to address the language barriers many women experience.

Many in the voluntary sector described how interpretation services were insensitive and unresponsive to the needs of women who had experienced domestic violence, and appeared to lack basic understanding of the ways in which post-violence distress impacted on women's communication.

Participants identified a raft of serious errors in how some services worked with interpreters, for example, male interpreters were often provided in spite of requests for female interpreters. Another example concerned a case where the perpetrators of violence were called upon by the police to interpret when they attended an incident in a house. The police again were identified by another participant in an example of inappropriate practice, when during an incident; they relied on children to interpret.

9.6 The police: inconsistent responses

The role of the police is a significant feature when intervening in domestic violence cases and one that has been examined in many other domestic violence studies. As one police officer interviewed for this study indicated, they received 1,100 reports of domestic violence incidents every month in their area of operation. However, for the purposes of this study police intervention was discussed in the context of women who were in the UK on spouse visas and sought protection following spousal and/or familial violence, and who were considering registering asylum claims because of fears of returning to Pakistan. This also involved examining how the police's function as Home Office agents in immigration control affected their role to protect Pakistani women in this 'category'. The discussion in Chapter one of the stigmatising effects of the 'war on terror' on Pakistani women drew attention to their ambivalent relationship with the police, indicating that the 'engendering' of a prohibitive climate by

the Home Office ultimately acts as a disincentive to women to talk to the police, thus heightening the harm to which they are potentially exposed.

Interestingly, participants were divided on the issue of whether the police demonstrated appropriate responses to Pakistani women's requests for support. The emerging picture illustrates how the police often do intervene irrespective of immigration status and yet fail to pay proper regard to women's essential needs, for example the way in which they work with interpreters as described above. Whilst some participants stated that their experiences of working with the police were generally good and that the police were more responsive to domestic violence issues than ten years ago, others stated that the police's primary motivation for intervening was to secure convictions.

Police responses were also considered to be largely dependent on the sensitivity and awareness of individual officers (male and female) arising from a combination of close working relationships between local station officers and local women's service providers and quality training programmes. Yet in spite of training at all levels, the nature of the response was often dependant on individual officers within stations or regions. On balance participants concluded that cultural and institutional barriers to change remained in place. One legal practitioner in the Midlands described her negative experiences of working with the police:

"I've had to struggle with the police so much. I've got one woman, she's from a village, uneducated, not Pushtoon but she's from a tribe. She went to the GP when she was attacked by her husband and was pregnant and they called the police and they took photographs. But now three months down the line they've actually closed the case because they are saying they haven't got enough evidence. They are saying the injuries could have been caused by anything, it is just an allegation. The police just have no understanding of the difficulties women in general, and particularly Asian women have in reporting violence. They have their own expectations of what a victim should have done and many women may come to their attention and then don't want to make a statement or still have a connection to their husband. I had one tragic case, where a woman was stabbed by her husband and he was arrested and then when he was released (by the police) he talked her out of continuing with the case."

In contrast, a support worker based in a refugee community organisation, also in the Midlands, presented a more positive account albeit with a cautionary ending:

"I was quite impressed with him because he'd been with the lady all morning and that's something that happens to us a lot so it was good to see that other services experience those difficulties. It's hit and miss really though, he seemed to be really on the ball and knew about the women's services but he was part of a domestic violence team, he understood about violence that wasn't just physical. But I've also come across other officers who when they find out it's an asylum seeker with no recourse they just want to pack them off to another service as soon as possible."

These two accounts reinforce key longstanding problems, notably the police's need to create nationwide uniform practices in tackling violence, and the need to attend to training and awareness issues.

Some participants made reference to the cultural framework of Pakistani women's negative experiences of police involvement in Pakistan. Yet again, as some of the examples referred to above suggest, this provides further parallels with police practice in the UK which has led many women to simply not consider approaching the UK police. In her interview for this study a police officer discussed her awareness of the complexities of handling cases involving women from non-western cultural contexts and clearly identified aspects of immigration control, notably the rule on 'no recourse to public funds', as a particular barrier to women's access to support. Her insight is an indicator of positive developments in police awareness of domestic violence with Pakistani communities, yet there remain widespread inconsistencies in practice.

9.7 Legal services: barriers for lawyers are barriers for women

"Many women are so panicked that they don't want to tell their story, they don't know if the listener is sympathetic or a part of the government and that is where they need more help. Some of them will only speak to a woman and that is not always provided, there are often male solicitors and they are not given a choice, but they won't speak about certain things in front of a man."

This extract from an interview with the chief executive of a BMER¹⁸⁷ organisation in Wales highlighted some of the practical problems women experienced when trying to access legal services. However, other participants explained that these problems only partly described the barriers. The provision of legal services in asylum cases involves a consideration of a number of complex interlinked factors, in particular, access to resources, the politicisation of asylum law and practice, and access to justice. However many participants also raised concerns about the general lack of knowledge, understanding and expertise on the part of many legal practitioners in domestic violence cases. The following interview extracts highlight these deficiencies and, additionally, how their lack of attention to detail can obscure the actual and specific nature of women's experiences. One participant, herself a lawyer based in a law centre, explained that:

"It's not just black and white 'has he hit you?' there's all the emotional abuse that can go on in a relationship which needs to be brought out. The definition of domestic violence was only broadened by organisations pushing at the boundaries and understanding what the experience of domestic violence is for women, but solicitors don't think in terms of grey areas."

The director of an international NGO put it in these terms:

"They [solicitors] tend to go for the 'fashionable overkill' and will use lots of allegations involving honour and the threat of violence and potential harm or death, but that won't necessarily get to the specificity of the case. If you talk to a woman the actual reality of the case is often more horrific. If you can bring out what is happening to the actual women, the real story is often more horrendous than these dramatic allegations, but to bring out the real story takes time to talk to her and get the information. It's possible sloppiness by solicitors but also a lack of time and preparation."

The latter part of this quote is a point also echoed by lawyers in relation to complacent and corrupt practitioners, including 'cowboy community consultants':

"One case I remember the initial handling was appalling, it was negligent."

The extent of corrupt practice is supported by anecdotal evidence from reputable lawyers as well as investigations carried out by OISC¹⁸⁸ however women in need of legal 'support' continued to be financially exploited. Another lawyer described their experiences of 'unscrupulous' practitioners:

"Domestic violence affects all women, but for women with insecure immigration status the effects are even worse. For you or I we can go and find help, get benefits but they can't do that and there are many unscrupulous solicitors and advisors who will take money from these poor women and they will beg borrow or steal to get the money to pay them. They are just exploited even by their own representatives. One woman's sister gave [a] firm £500 but they botched up the case so badly that any subsequent evidence that was provided was dismissed by the Home Office."

The squeeze on legal aid funding has, additionally, led to many reputable private practitioners across the UK to cease immigration and asylum case work altogether. This has in turn overburdened the not-for-profit providers of legal services and enabled the flourishing private market of 'consultants' to capitalise on this new 'market'. Participants highlighted that in combination, these factors had ultimately contributed to women's inability to present credible cases. A barrister drew particular attention to quality issues in legal services during her interview for this study:

"Having a good solicitor is extremely important and knowing what to look for and what evidence to get...a lot of women are not represented, or represented late or not represented by people who know what they are doing... sometimes I pick up on appeal something which has been messed up."

One Pakistani woman participant drew parallels between her experiences of legal services in the UK with those in Pakistan:

"I found my situation to be the same as in Pakistan. The solicitors would not take my mother's case unless they were paid..."

¹⁸⁷ For this study, BMER refers to Black, Minority Ethnic and Refugee Women.

¹⁸⁸ OISC is a public body set up under the Immigration and Asylum Act 1999 and is responsible for regulating immigration advisers.

Participants also highlighted the impact of the NASS dispersal system on legal services provision, for example when women had to change representatives, often at critical times before an interview or before a hearing. A solicitor in London stated that:

"I had one woman I was dealing with but unfortunately she was dispersed and it just wasn't possible to keep the case on. She had to seek advice from a local solicitor; legal aid recommends that you seek advice locally as well so we couldn't keep her on."

Participants also highlighted the practice at the Home Office of 'fast tracking' asylum cases (tightening the timeframe within which asylum claims from certain countries are disposed of once they are registered). They felt that this had an effect of limiting the amount of time lawyers could realistically and financially afford to spend on case preparation and evidence gathering, and resulted in chaotic, under-resourced and highly pressured legal service provision. Participants perceived women to be the victims of these structural and political problems. A housing support worker in Wales provided a perspective on how women struggle to keep up with the legal services and the asylum system:

"The solicitors are all up in London, there is one in Newport and the Immigration Advisory Service in Cardiff, but they are run off their feet and only come here once a week or so to give advice sessions and they can't really take cases that show any kind of weakness. And don't forget the solicitors often don't even turn up in the appeal court, they just send the papers on, so she wouldn't have had anyone there and every time she went she had to desperately try and find someone to look after the girls because they were terrified of going. If she had to take them it was a 3-4 hour journey to London and then on the tube with three kids, even if she managed to leave them here she'd have to rush back to pick them up because it would be such a long day and it was difficult to find the money to go."

9.8 Evidence: compelling, credible and immaterial?

Evidence in domestic violence asylum cases consists of 'subjective' and 'objective' material (see Chapter three). Typically in a domestic violence asylum claim, evidence might consist of a woman's written statement of her experiences, witness statements, medical reports, experts reports (which might address any number of specific issues pertaining to the individual woman's circumstances, but which on the other hand might be a generic country report) and any other documentary evidence to support the account. The latter type of evidence might specifically corroborate facts, for example in a Pakistani woman's situation, this might consist of a 'first information report' which is generated by the Pakistani police if/when she registered the violent incident(s) at the police station, and whilst not contemporaneous, it should provide a factual description to the police of what actually took place. It might also consist of evidence from which inferences can be made, for example a Pakistani newspaper article which refers to a male relative's business, political and/or community interests.

A large majority of participants who assisted women to compile evidence were sceptical about whether most Pakistani women would be able to present such a body of evidence, and furthermore, whether such evidence, however compelling, actually would succeed in persuading the decision makers. They identified a number of specific factors which were indicative of this cynical treatment of evidence, a cynicism which they argued permeated the decision making system. These factors were connected to women's class, women's own perspectives and understanding of violence, the role of country reports and expert evidence, and the 'culture of disbelief' which appeared to pervade decision-making. Each of these factors is discussed below.

9.8.1 Economically disadvantaged women: economic with the truth?

Women from rural areas in Pakistan were identified by many participants as the primary social group who are least likely to be able to produce 'subjective' evidence, other than their own statements, in support of an asylum claim and were more likely to be regarded as economic migrants by the Home Office. One participant, a worker in a BME organisation, explained:

"...but if they say they are poor and from a village they just assume they are economic migrants and women's cases are not getting fully investigated".

This correlation between the low socio-economic profiles of many Pakistani women, their inability to evidence their experiences of domestic violence beyond their own testimonies, and subsequent negative judgements about their 'real' motives for fleeing, was consistent with women's experiences globally.

Critically for this study, it brought into sharp focus the relationship between women in these circumstances and, as the above extract highlighted, the perceptions decision-makers hold which lead to negative judgements. Interestingly, whilst the majority view of participants suggested that the Home Office are perceived to discriminate against economically disadvantaged women from rural areas, participants also described the parallel suspicions of the Home Office against women from wealthier backgrounds, as illustrated below.

9.8.2 Economically advantaged women: better off?

In the following extract, a barrister explains how a woman from an educated, higher class succeeded in her asylum case:

"I realised that the reason we won the case was because the woman was very together, she had language skills and she was obviously bright and stood up for herself and walked out early on before the violence became too great. I think it's almost more difficult when someone has experienced violence over along period of time because the Home Office will not believe that they have put up with the violence for so long."

The barrister recognised how the perceptions of decision-makers of women and their class could lead to inaccurate portrayals of women's experiences; he alluded to the woman's education and consequent ability to explain her case in clear terms as the reason why she won her case, but highlighted the further misconceptions of the Home Office that her higher class and ability to 'walk away' from violence were interlinked. The following extract from an interview with a Midlands based legal practitioner further illustrated the contradictions in Home Office reasoning when it came to issues of class and background:

"The problems that we've encountered, and I think other solicitors would share this problem, are cases where the woman is well educated or professional, perhaps from a city area...I mean there obviously is variation across areas and regions and within regions, there are upper class women and women are in different positions in society, and I think the Home Office has grabbed onto that, has seen that women have held high positions in Pakistani society and they say 'how can you reconcile that with a woman who is saying if she goes home it will put her life in danger?' They think it's out of proportion. Yet if you've got a case of say, a daughter of a high ranking official or politician then her father has to be seen to save face and that can involve killing her. Yet if she has some qualifications, the stakes are very high; she has to prove that she can't just move to another city."

Undoubtedly each individual woman's circumstances need to be considered in their own right, however, as this participant identified at the beginning of this quotation, most other legal practitioners who were interviewed expressed similar frustrations with the inconsistencies in and inaccuracies of the Home Office's approach in relation to women of different socio-economic backgrounds.

9.8.3 No-one is 'genuine'

The above examples suggested that practitioners were questioning whether a new trend was emerging in decision-making on Pakistani women's asylum cases. Many participants suggested that the Home Office had become less accepting of Pakistani women's accounts and evidence of violence, irrespective of class. For example, a solicitor based in London stated as follows:

"Now they are more strict, they are not finding anyone genuine at the moment...Even the First Incident Report they are not accepting that any more, they are saying that this is not good evidence..."

9.8.4 Pakistani women and the language of violence

Another factor which undermined evidence concerned the nature and description of violence itself. Many participants highlighted the indirect ways in which women described the intimate details of spousal interaction. However, in conjunction, they stressed the difficulty of preparing statements

when, for example, there appeared to be no obvious linguistic reference points for certain forms of sexual violence that are meaningful in a western legal context. They also stated that Pakistani women themselves struggled with their own anxieties about confronting violence and about facing counter-accusations of 'sexually deviant' behaviour for drawing attention to violent spouses. One legal practitioner described these obstacles as follows:

"Women will often not give as much detail as is needed, they will summarise it. They will say things like, well he hit me for three days a week for six months, but they won't actually say what happened, if they were hit or punched or where they were hit. I have to push them to get them to describe the detail. I've got one woman who was raped in her marriage and she has only just revealed that to me, she didn't want to talk about it she felt so dirty. We had had to write a supplementary statement explaining why she didn't raise it before. She felt that no-one would believe that a husband would rape his wife. Especially for Pakistani woman sex is just something you don't talk about. There are certain phrases in Urdu and Punjabi which would signify that you were sleeping with your husband, you would never say sex. So when there's been sexual abuse there is no language to express it, even the way I'm talking now would be very difficult to translate into Urdu, less educated women don't even know the word for sex so its very difficult when I'm talking to them to try and bring out those issues."

This example indicated that if the words did not exist, or alternatively, if women were not able to describe their experiences in those terms, accusations of 'fabricating' evidence might well ensue. Additionally, as discussed above, difficulties associated with interpretation services could lead to ambiguities and inaccuracies.

9.8.5 Country reports

Reports which provide all the relevant country information vary in detail, quality, accuracy and reliability. Participants perceived country reports, in particular, Home Office generated reports, to be lacking in objectivity; the majority view was that they were, as a rule, incapable of being 'independent'. Relied on by the Home Office for assessing asylum claims, their country reports were regarded by participants with suspicion, not only for what they contained, but also for what they lacked or glossed over. Whilst participants did not make reference to reports commissioned by non-governmental organisations, the writers of this report were aware of similar accusations arguably being levelled at reports produced by those organisations. Participants referred to the Home Office's own reports as essentially the only ones to which the Home Office paid due regard.

However, there is a considerable onus on report writers to source accurately and to make clear and unambiguous findings. Participants stated that in their experiences, Home Office reports did not stand up to this scrutiny (see chapter three for a summary of Home Office country reports and references to other studies which criticise their reliability). In the case of Pakistan, participants gave examples such as the continuing lack of detailed information about the situation for women that addressed women's particular position in society, the familial, class, religious and societal structures which led to women's ill-treatment and the considerable lack of attention to the complexities of internal flight. An adviser at a refugee legal centre explained the difficulties with Home Office reports as follows:

"In relation to country information reports, the information can be very poor on women...which doesn't really reflect their experience of human rights violation. Credibility may be an issue because if the report doesn't refer to the situation of women a judge may not believe her... [Home office officials] take decisions on the basis of deficient reports, but don't try to understand the situation as far as the individual is concerned, or because the report is not comprehensive they say 'oh its fine, you can go to the police'. They either ignore the individual situation or make broad generalisations on the basis of reports which are just not good enough...they don't understand the culture as well...we were told of one case of a woman who had declared to the Home Office that she had suffered domestic violence in Pakistan for x number of years and the decision maker just said that it was just not plausible that she had suffered to the extent that she described."

This suggested that sole reliance on Home Office reports was a flawed approach, and one which undermined women's own evidence.

9.8.6 Expert evidence

Participants spoke about how experts' reports, and indeed, experts themselves, had also come under close examination by decision makers and often faced similar accusations of a lack of credibility for their findings. Experts can address country specific issues, women's specific histories, health and well-being matters and the applicability of concepts such as internal flight in particular circumstances:

"For us, providing an expert report is very much about addressing these issues of credibility and implausibility, usually at the appeal stage...we can tease out the reasons why stories don't seem to hang together. We can use our expertise to demonstrate that things which seem outrageous or impossible are actually very possible in that context."

As this quote from a legal practitioner demonstrated, their role in corroborating the credibility of Pakistani women's accounts of violence, and of fears of returning to their country, was potentially invaluable. The challenge they faced, however, when exposed to a critical inspection at the hands of the Home Office and the courts, was proving their own credibility:

"For experts it's very difficult because their framework is very different and they are finding their reports are going to court and being rubbished."

It is without doubt important to identify experts with appropriate and well established expertise. However, the above quote from another legal practitioner alluded to the crux of the problem that is, the ongoing difficulty of locating experts which the decision-makers accepted as reliable or credible. It also appeared that this is inextricable from the 'culture of disbelief' (see below) which framed decision-makers' negative approach to the analysis of evidence; the cumulative effect of these factors appeared to undermine the evidence of experts.

9.8.7 The inherent 'culture of disbelief'

This notion has been considered in Chapter three and a number of these points have been well-rehearsed in other studies referred to in that chapter. Yet the notion of a 'culture of disbelief' persisted throughout the research and consistently informed the responses of participants who believed that this culture underpinned the attitude of decision makers towards Pakistani women's asylum claims.

"Here they don't understand the system in Pakistan and how, if you leave a family, if you run, the family can be very 'thirsty for blood'."

This quote from an interview with a worker in a Muslim women's refugee community organisation explained how a lack of understanding, and an inherent distrust of evidence, combined with opposing cultural frameworks, could lead to difficulties for women in constructing plausible testimonies. In the words of the director of an international NGO:

"She said words to the effect that 'all his men raided the house and tried to drag away my child, but then they went away'. The statement didn't make sense, because there were only her aged and infirm parents there and if a feudal gang came to take your child they would have taken him.... In Pakistan you can't have a truckload of people coming to someone's house without there being a whole hullabaloo without the entire neighbourhood knowing... because it sounds like an outrageous thing to claim, but when you understand the context it makes sense".

The extract below from an interview with a legal practitioner demonstrated these points succinctly, in particular how the concept of dis/honour and its relationship to familial integrity was not credible to the Home Office:

"I think the actions that are taken by men in defence of their honour are sometimes seen as quite incredible by the Home Office, they think 'is it conceivable that a father or brother or husband would actually kill a woman because of this notion?'"

Participants remained of the view that this culture has contributed to women's reluctance to describe events at interviews, and often under cross-examination in courtrooms, which women still perceived to be hostile environments:

"Sometimes women disclose sexual abuse very late, there are reasons for that which are documented, sometimes...they wouldn't disclose very personal or upsetting, or what they would

see as the more offensive aspects of the abuse they have received. They might later tell their solicitor who then has to explain why they didn't mention it before...if you've got a male Home Office employee or it's a hostile environment then it is unlikely you would want to disclose such information."

Furthermore, some participants drew attention to how these cultural frameworks for assessing evidence had led to insensitive and inappropriate comments made by immigration officials during, for example, a removal:

"The woman was being treated by a psychiatrist for her mental health issues and they aren't supposed to remove someone under those circumstances, but they got round that by putting a doctor on the plane with her. When I asked the immigration officials about it, and I said removal was not in the best interests of the children, they just said that her case was very weak and they told me that she had said that schools were good here."

In the following extract, a legal practitioner described the comments of an immigration judge during the course of submitting evidence on a woman's experiences of trauma:

"I'd like to look at their training because in the course of the cases they sometimes make comments that you think they shouldn't be allowed to make as a judge. I know of one example of a psychiatrist's report dismissed, which said the woman had depression, and the judge just dismissed it saying 'I know about depression, my wife's depressed.'"

Not all participants considered judges to be 'hostile'. However, the concern of legal practitioners focussed on more generalised discrepancies in the way in which judges acted and pessimistic outlooks on whether change could be implemented:

"I'll go into court and sometimes I'll know when I see the judge what the outcome will be, many are not like that, but there are some where you can pre-determine the outcome. There are more women than there were and I think the quality of judges has improved, more instructing solicitors are now sitting and they know the law which is a real issue ... judges could come from area of the law and are not necessarily immigration specialists. If they've come from a background of criminal law they can be working from a very high standard of proof and you want to tell them it doesn't work like that, it's not 'beyond reasonable doubt'. There's a lot of regional variation as well, I've heard that in North Shields it is very hard to win a case for example. Whatever viewpoint of the world and of immigration and asylum they come in with, it's not going to be changed by doing the job, some people...it just hardens their attitude and no amount of guidelines will change that."

The following chapter examines how participants described the consequences of these issues in service provision for women and children in the UK.

Hamida's case

Hamida's parents died when she was about three or four years old. She was brought up by her maternal aunt and uncle who themselves had five daughters and two sons.

Hamida started work from the age of seven. Since then she has been dressing as a boy. She said she had to do this because it is the only way to survive without being harassed. She was treated very badly by the family and was not provided with any food despite handing over all her wages.

In 2005 Hamida tried to commit suicide because she felt unloved and unwanted. While at the Rawal Dam, Hamida met a man who talked to her and asked about her, she told him she wanted to commit suicide. He explained that committing suicide was a sin and took her to see his wife who tried to persuade her to return to her family.

Hamida refused to return home and the couple then decided to send her to a friend's house in Abbotabad where she could be properly cared for.

A few months later she saw her photo published in the newspapers by her maternal family claiming that she had been kidnapped. In order to protect the family she was staying with Hamida returned to Rawalpindi and reported to a Police station. She explained that she had not been kidnapped and that she had left home of her own accord as a result of being mistreated by her aunt and uncle.

She said that initially the Police were sympathetic but then became quite aggressive and slapped and kicked her. Hamida was kept overnight at the station without any food or drink. Some Police officers were asking for bribes.

Hamida appeared in Court the following morning after refusing to return to her maternal family. The Judge granted her bail on the condition that she would return to her family. He told her family not to mistreat her and asked Hamida to return to court after ten days to see how she was getting on.

When Hamida returned to court again she told the judge about the abuse from her aunt and uncle since her release. The judge referred Hamida to a Dar ul Aman. She wants to be discharged from the shelter but cannot leave until the court order is granted. Hamida wants to work and support herself.

Chapter ten:

Impact of the asylum system on Pakistani women and children

This Chapter provides an analysis of participants' views on the consequences for women and children who are subject to the asylum system and immigration control. In particular, the Chapter draws attention to physical and mental health issues, the isolation women experience (compounded by dispersal system) and their exposure to the potential for exploitation when they reach the 'end of the line' and when they 'disappear'. The Chapter examines responses which highlight specific issues concerning children, in particular, their in/visibility in domestic violence situations and the roles they are often required to perform in the process of attempting to gain safety. Much of the following analysis has resonance for all women who seek protection against domestic violence.

10.1 Women's health

Participants provided a number of examples which highlighted how the relationship between domestic violence, health and well being is often overlooked or disregarded by decision makers. In one example, a London based solicitor drew attention to how the 'culture of disbelief' influenced the process of detailing the health consequences of domestic violence:

"The questions that they ask, in the first statement, there's no question that addresses or elicits the mental health of the asylum seeker or tries to draw out issues such as rape or trauma... if you understand the context to that, that the woman has experienced mental trauma, constant bullying and harassment, then that would go some way to answering questions of credibility that arise."

In another example, a worker at an international NGO stated that a client's inability to provide any meaningful detail, due to trauma, undermined her credibility in the eyes of the Home Office. This was in spite of the worker's view that the woman was manifesting trauma resulting from the violence:

"... the evidence of violence was poor and based very much on her testimony, which was not good as she was very traumatised, very, very traumatised. I mean her testimony was just appalling she couldn't remember the dates of her children's birth she was in such a terrible state. Her credibility was very low."

Participants also described how many decision makers appeared to be ignorant about the long term nature of psychological and physical ill health following violence. A worker at a specialist legal advice centre stated that:

"There are also lots of judges who, when they are dealing with types of gender persecution such as rape or FGM, when the incident is finished they argue that the persecution has finished and the trauma has stopped. I don't think there is a great understanding of the continuing ostracism, isolation and pain and that it's an ongoing persecution rather than a one off incident."

The role of medical experts is critical in this regard. However, as the discussion in Chapter nine on 'expert evidence' indicated, medical evidence on a woman's health post-trauma, appeared to have insufficient persuasive value.

10.2 Isolating effects of the asylum system

Participants described how women remain isolated and vulnerable throughout the asylum decision making process. Women were often unaccompanied or lacked support throughout the process, from Home Office interviews through to appeal hearings. A local authority support worker explained:

“And don’t forget the solicitors often don’t even turn up in the appeal court, they just send the papers on, so she wouldn’t have had anyone there and every time she went she had to desperately try and find someone to look after the girls because they were terrified of going.”

Whilst legal support existed for the preparation of evidence, and other support was available to address health and well being issues, there was a gap in the provision of non-legal support to ‘accompany’ women through the asylum system. Some participants suggested that women in these situations were often likely to accept any form of informal support however inappropriate (for example from male or female members within a particular community group) but that they were unlikely to approach formal services, not only because they might be unaware of them but also because they were likely to have low expectations of receiving culturally appropriate support.

10.3 Dispersal: rural and urban isolation

Dispersal of Pakistani women to areas such as Wales, where there is a low Pakistani population, led some participants to state that women were geographically and culturally isolated in that region. A local authority support worker in Wales felt that there were no wider social networks for Pakistani women in the region.

Some women participants described how they were isolated by Pakistani communities in highly populated urban areas. A number of women commented on how they felt shunned by communities because of the ‘word of mouth’ culture and its scrutiny of local ‘new arrivals’. One woman explained how she had learned to ‘*know where to go and where not to...*’ Other participants explained how these hostilities were fuelled by local suspicions about Pakistani women’s motives for arriving, isolating them further and preventing them from speaking about their experiences. This extract, taken from an interview with an adviser at a refugee community organisation, explained women isolated themselves as a way of avoiding attention:

“I think women don’t speak about these things because of the trauma and taboo. I think it’s a lot easier for [British] women in this country to talk about these issues but I think we’d still find we’d have a delay in talking about the issues in our cultural and social environment. I think these are issues that in their own communities you simply don’t talk about. There’s a huge stigma in speaking out, perhaps also committing an honour crime in doing so which has its own punishment.”

In this context women continued to fear accusations of ‘dishonour’ and ensuing threats of reprisals from UK based communities.

10.4 When women disappear: hunted and exploited

“I had a case where a woman failed and was at risk of being removed she just disappeared so I don’t know what happened to her. The reality is that the system, by not allowing women access to services, pushes women to the very margins of society. They end up living on charity or the good will of others, they find a way to live but they are exposed to exploitation in the process.”

These concerns, which were raised by a legal practitioner in the North West, were echoed by many participants in relation to the situation women faced when they reached the ‘end of the line’. When women’s asylum applications are rejected, some women ‘disappear’ rather than face proceedings for removal to Pakistan, which inevitably involves a period in detention. There is little information on how they tackle the challenges of life ‘in hiding’ or how they access support for children whilst in the UK, if indeed they remain in the UK.¹⁸⁹

Undoubtedly, current immigration and asylum legislation heightens a failed asylum seeker’s vulnerability; in the experiences of most practitioners, they were unlikely to approach statutory services or any other service which they perceived to have links with the authorities.

Participants commented on women’s need to financially survive, which rendered them more susceptible to exploitation by unscrupulous employers who themselves risked breaking the law by

¹⁸⁹ See *The Destitution Trap: Research into destitution among refused asylum seekers in the UK*, Refugee Action, London, 2006.

employing failed asylum seekers. Within specific forms of employment, for example the sex industry and domestic work, exploitation was perceived to be more prevalent.¹⁹⁰

Participants highlighted how women's attempts to survive on the margins of the system had consequences for children's physical and psychological health, as well as for their education. The emerging picture from the research demonstrated that UK legislation created the conditions which exposed women to further harm.

This parallels the situation for women and their children in Pakistan who escape domestic violence and find themselves either on the streets, in prison or exploited by unscrupulous 'businessmen'. Chapters four to seven provide a more detailed analysis on this parallel existence; however the following extract from an interview with a worker at an international NGO exemplified how easily women from Pakistan were subjected to further abuse:

"I explained in one case that the daughters would probably end up in prostitution, as there was no way they, from a particular class and situation, could be supported in Pakistan. There is a form of prostitution that is not streetwalking, but a woman is used to make money and contacts and it would be perfectly logical in that situation, where the family is trying to survive, for them to be forced to use the daughters in that way, and that was successful on appeal, even though it was at a very late stage."

This account is likely to be familiar to many UK based women's service providers; it is well documented that British women and girls, in the process of escaping familial violence, often find themselves submerged in further abusive situations, in prostitution for example.

10.5 Children

'I'm not afraid; I just have nightmares'...

These words were spoken by a child to a local authority housing support worker. It was a considerable challenge for this study to identify the experiences of children but to not explore in depth the forms of ill treatment to which they are exposed in their own flight from domestic violence. Children's needs in these situations urgently merit study in their own right. Almost every issue raised in the analysis above had an implication for children who accompanied their mothers throughout the asylum process and raised concerns for service providers. Children usually accompanied their mothers during flight. Participants described the presence of children at almost every stage of the process, for example, when the violence itself had occurred, in interviews with legal practitioners, in court during hearings and in detention pending removal. The process of conducting interviews with women survivors for this study was often challenged by the presence of lively, noisy and demanding children and yet women themselves, who were keen to recount their experiences, did not consider separation from their children for the purpose of the interviews as desirable.

This raised two key issues for this study: the role of children when they were present and the effects on them of what they witnessed and experienced of the process.

10.5.1 The role of children

One participant, a woman who volunteered at a BME organisation, and who had experienced domestic violence prior to claiming asylum, described how children often became tools in the informal bartering process for 'freedom' from violence; she spoke of her attempts to negotiate with her estranged spouse for the return of two abducted children. She succeeded in being reunited with them only after being advised by her father to offer to exchange them for the third child in her custody. Her father advised her that this would make the husband believe she did not care about the children, and so would return them:

"He kidnapped my children at gunpoint because he wanted me to go back...in the car was their uncle and two or three men with guns and they snatched the kids and took them and kept them

¹⁹⁰ See *The Destitution Trap*, op.cit. p. The Report provides detailed 'survivor' accounts on hardship and destitution resulting from failure to obtain protection from within the UK's asylum system.

at somebody else's place...what they wanted was that I should come back...I said... [to him] I'm sending you the third one...I said this because my father said if you say this they will give the children back because they don't really want them..."

The woman explained that she decided to leave Pakistan when her estranged husband expressed his wish to marry the elder daughter (aged eleven at that time) to a man he knew.

A worker at an Asian women's support service explained how they directed some of their resources in trying to reconcile women with spouses 'for the sake of the children', particularly in cases involving women on spouse visas. For this particular service, children were seen as the single over-riding reason for retaining familial connections, irrespective of the further harm to the woman, and to the children, which might ensue.

Although undoubtedly inappropriate, children were frequently required to act as interpreters for their mothers, a situation which arose at different stages of 'crisis' throughout the asylum process (see also Chapter nine on 'interpreters'). The dangers of these practical demands on children cannot be disassociated from the potential harm resulting from women's dependency on them for emotional and psychological support, whether during the process of interpretation or simply during the process of women recounting their experiences, as we witnessed when we interviewed women.

Children as witnesses to incidents can be critical in their role as providers of testimonies; however participants generally considered it not in their best interests to be called to give evidence. Nor did participants consider it to be a suitable tactic of legal practitioners unless a child could be counted on as a reliable witness. It is noteworthy however that many service providers, such as the police, gave less consideration to the potential harm to children as conduits for information when placing them in the position of interpreters.

10.5.2 Impact of the asylum system on children

The limitations of this study to explore in depth the full impact of the process on children has been highlighted above. However participants were acutely aware of the distress and damaging psychological impact of the asylum journey on children who had experienced violence and dislocation and were now placed in an uncertain situation in which their safety could not be guaranteed. A housing support worker based in a local authority described one situation she had witnessed:

"...the kids were terrified of anyone official especially the police, because she had to sign every month at the police station and every month she had to look for someone to look after the girls because they were absolutely terrified of the police station. I think that was because of the police in Pakistan and experiences they'd had there."

Some participants also described how some children had expressed their anxieties about being separated from their mothers, having already experienced separation from one parent. This provided some context to the presence of children (during interviews and so on) but highlighted their vulnerability to certain expectations from service providers (to act as interpreters, for example).

Participants described how it was easier to access support for children than for their mothers; given statutory duties to protect children, this is unsurprising... However the long term effects on children of seeking refuge against domestic violence demand further investigation as this quote from a worker in a refugee community organisation demonstrates:

"...her oldest daughter suffered from depression before she arrived here because of the violence; she was being treated for depression. The girl wet the bed in Pakistan and she was eleven when she was deported from here and she still wet the bed, even after she'd been here three years."

Clearly the scope to examine in-depth issues concerning women and children's physical and mental health and well being in asylum and immigration contexts is urgent. We highlight this as an area for further study in the final Chapter, 'Discussion', which follows. Indeed the following Chapter provides a summary of the key themes which emerged during this study in both Pakistan and the UK, drawing out commonalities and differences in the two 'regimes' and summarises the areas which merit further research.

Chapter eleven:

Discussion

The complex intersections of issues of gender, race, domestic violence and protection in the UK and in Pakistan lie at the core of this study. These issues pose considerable challenges for service providers and governments responsible for providing protection for women, and ultimately for the women seeking safety and justice. It is not the role of this research to generate specific recommendations; instead this Chapter provides an overview of the intersecting themes which underpin Pakistani women's experiences. This overview highlights the issues which need to inform service provision in order to enable women to find safety.

The consistency of the concerns raised by the participants is striking, and demonstrates commonality in the anxieties and frustrations of a diverse range of individuals and agencies in dealing with Pakistani women who have experienced domestic violence. Within the thematic headings below, is an examination of such commonalities of perceptions across the two states and ways in which practices in both contexts maintain the discriminatory and persecutory treatment of Pakistani women both in Pakistan and the UK.

We start by revisiting the remit of the study. The Chapter reflects on key methodological issues and reiterates the trans-national context for this study. It summarises the ways in which representations and pre-conceptions of Pakistani women influence the decisions that are made about them. In doing so the Chapter highlights issues that are specific to Pakistan and common to both states, and identifies conceptual problems with internal flight. It draws attention to some of the issues that are specific to children and also provides an overview of key issues regarding service provision. The Chapter also reflects on the treatment of evidence and the problematic meanings of 'safety' and 'return' in a context in which asylum and domestic violence issues intersect. Finally, the Chapter highlights potential areas for future research.

11.1 Clarifying our remit

In the UK, the study was principally concerned with examining the ways in which the Border and Immigration Agency, the immigration judiciary and other relevant service providers address the legal, welfare and other support needs of Pakistani women as asylum seekers. This drew our attention to the interplay between racialisation and racism as structural defects within the 'system', and which impact on Pakistani women's access to safety and justice regarding domestic violence. In Pakistan, the study's focus was to examine the nature and extent of domestic violence and of service provision to protect women across all sectors, and to document the reality of women's experiences of attempts to gain safety. It also focused its examination on the reality of women's attempts to relocate intra-country, with particular reference to the barriers presented by the internal flight concept. The nature of gendered relations is an underpinning feature of much of this examination and the discussion on the UK context.

11.2 Some methodological reflections

The study needed to maintain a trans-national focus in order to generate a more informed understanding of Pakistani women's experiences of domestic violence and access to protection. In turn, this presented the research team with numerous challenges, notably the need to pay due attention to the risks of over-homogenisation, of over-culturalisation, and to the various uses and meanings of the terminology associated with the themes reflected in the report. A range of research approaches, tools and analytical frameworks were used in response to the different national contexts of Pakistan and the UK.

There are considerable challenges involved in researching, interpreting and reading material generated from two different contexts. It was important that the research paid due attention to difference, as well as commonality, in the responses of the participants. As a means of avoiding stereotyping, the cultural and regional diversity of Pakistan underpinned the research design and acted as a constant check on over-homogenisation. Paradoxically, attending to differences also drew attention to cultural and regional commonalities.

Given the partial and conflicting character of quantitative information about domestic violence in Pakistan, the lack of documentation of domestic violence services and the complex immigration and asylum system in the UK, this study aimed to generate more indicative information to amplify available knowledge bases. Obviously such a detailed study had to be selective, focusing on some indicative geographical areas in both the UK and Pakistan. There is still a place for a more comprehensive national-specific evaluation of service provision, around domestic violence provision in Pakistan, and asylum support to Pakistani women in the UK, to be undertaken.

The task of conducting research into sensitive and distressing issues that generate powerful and challenging accounts can elicit emotive responses, however efforts have been made to maintain an appropriate standard of critical commentary.

11.3 Connecting trans-national audiences

The task of targeting diverse audiences, in both Pakistan and the UK, is a challenge for any trans-national study. In highlighting the issues relating to domestic violence, across several regions in Pakistan, the research revealed the structural, political and cultural interconnectedness of practice between Pakistan and the UK. This approach also drew attention to 'disconnections'; for example, how the UK's asylum system is perceived in Pakistan and how the concept of 'refugee protection' itself, as a form of 'asylum' against domestic violence, is an unfamiliar concept to many women and service providers in Pakistan. Furthermore, it highlighted the need to address specific conceptualisations of women, cultures and of the nature of domestic violence itself which, in combination, created the conditions for violence against women to take place.

11.4 A trans-national focus on gender, culture, racism and domestic violence

The study enabled us to put violence against Pakistani women into a wider context. By drawing on current international discourses on 'gender', 'culture', and racism the team were able to interpret the materials in the context of recent research and debates. It enabled the researchers to highlight forms and manifestations of violence which were perceived to significantly affect particular women (for example, honour killings and their prevalence within South Asian, and specifically Pakistani women. It also enabled us to examine the consequences of domestic violence to the women who experienced it, to children and to wider society, in both the Pakistani and UK contexts.

The initial aim of this discussion was to highlight the need to shift from 'culturalist' notions of violence, to examine the interplay between gender and race, and understand both why and how violence against Pakistani women takes place. The material demonstrated the ways in which cultural, racial and political frameworks in Pakistan and the UK intersected to create conditions in which women could be subjected to violence. At a central juncture in these intersections were some fundamental inadequacies and injustices within the UK immigration and asylum system. Within Pakistan, the research also highlighted the way in which religious and cultural norms were bolstered by a corrupt political system. These norms were central to the way in which institutions, systems and states conceptualised domestic violence. Furthermore, heightened debates about Islamophobia, racism and the 'war on terror' seemed to have intensified community concerns regarding a new wave of racism. These fears seemed to have contributed to a decrease in the reporting of incidents of domestic violence amongst Muslim women. This indicated an urgent need for both Muslim community groups, and service providers, to refocus on the issue of domestic violence.

Pakistan's history, since its emergence as a new nation state, has demonstrated volatility and instability. The most recent upheavals within Pakistani society have illustrated the way in which the influence of Islamic leaders directly impacts on women's status and ensures that meaningful change does not happen quickly, if at all. In the UK, change has taken place, but this change has often been of

a regressive nature, particularly in the field of immigration and asylum. This is apparent in recent legislation to 'secure' the UK borders, in which the issue of immigration and asylum was inextricably, and lamentably, linked with fears of terrorism (the UK Borders Act 2007).

11.5 Representations of Pakistani women

The need to deconstruct understandings of domestic violence and build a strong conceptual framework recognising the diversity of women's experiences emerged as a critical issue in the research. The prevailing perception in the UK asylum system is that the 'typical' Pakistani asylum-seeking woman is an economic migrant. For this study it was important to develop an understanding of what lay beneath such viewpoints, particularly as they fixed Pakistani women's identities within a singular framework of opportunistic migration.

Within the west a woman who seeks asylum is often perceived through negative discourses. These discourses construct her as an 'immigrant woman', defined by her connection to practices such as arranged marriage and gender subordination, which are perceived as somehow 'backward' (Gedalof, 2007). Gedalof demonstrates how this discourse is a continuum of the gendered and ethnicised coding which keeps 'immigrant women' firmly sited as homogenised symbols of unchanging cultural traditions. Gedalof's analysis is pertinent to this study as within this construction, Pakistani women never cease to be victims as a result, and any claim a woman might make to a particular experience of victimisation remains obscured.

It is easy to see how, through this classification and stereotyping of Pakistani women, the actuality and specificity of male and familial violence is lost. The claim of victimization by a Pakistani woman becomes less credible when seated within such constructions and the focus can more 'plausibly' shift to the suggestion that the desire or need for economic gain is central to that claim. Gedalof's analysis highlights a specific experience of domestic violence that is structured by a 'minoritised' woman's minority status as an immigrant or asylum seeker (see also Chantler, 2007). In highlighting this difference she exposes the fact that in domestic violence discourse, there has been a tendency to privilege 'gendered' experiences of domestic violence over 'race' or cultural identification.

Within Pakistan, our material drew attention to society's perception of the role of women as principally wives, mothers, carers or dependents, which hindered women's potential for progression to independence. Significantly, within the UK's asylum system similar conceptualisations of Pakistani women exposed flawed approaches to decision making. These included difficulties in grasping complexities within women's circumstances, for example, whilst some women attempted, and sometimes succeeded, in living as 'lone' women, they did this at the risk of experiencing 'legitimised' harassment, potential harm and also risked serious consequences for their 'reputation' and their family.

'Other' women who are similarly presented in problematic terms include 'abandoned women' and non-Muslim Pakistani women (for example Christian women) and Ahmadiye women¹⁹¹. Abandoned women often find themselves in 'limbo' in Pakistan, for example, Pakistani nationals who arrived into the UK with spouse visas and who are subsequently 'sent back' because of marriage breakdown. Throughout the study, it became clear that most of these women have experienced spousal and/or familial violence and were subjected to accusations of committing acts of 'dishonour'. The difference lies in their inability to register an asylum claim should they wish to, as it remains unclear how, if at all, a woman can lodge a claim at a British High Commission in Pakistan. These women do not fit into existing models of asylum and do not fit into prevailing conceptualisations around gender, violence and national responsibilities for service provision.

In the context of current post 9/11 and 7/7 political tensions, Pakistani women have sought to negotiate a complex, and at times ambivalent, identity which navigates their sense of self as Pakistanis, Muslims, immigrants and as asylum-seekers. The increasing adoption of Islamic head dress reflects this attempt to negotiate these complexities. Whether women are independently aligning themselves to a 'movement' by manifesting outward physical signs of affiliation, or whether they are acquiescing to coercive religious elements in assuming prescribed roles, these developments require continual examination to provide an understanding of the context and meaning behind change. Yet for UK

¹⁹¹ Whilst the Ahmadiye are a minoritised group their beliefs are consistent with Islam, supporting the view that their 'otherness' is in fact mired in historical and communal conflict within Pakistan

decision-makers and service providers, this presents a challenge which is all too easily bypassed in favour of more easily available interpretations and understandings.

11.6 Pakistani women and 'membership of a particular social group'(PSG)

Legal discourse on this ambiguous Refugee Convention ground has gained momentum since the inclusion of Pakistani women within the definition of a PSG in the landmark case of Shah and Islam. However, as indicated in the preceding paragraphs, decision-making in Pakistani women's asylum cases since then has been dominated by attempts to narrow its application, partly attributable to cultural ambivalence and misplaced perceptions.. Furthermore, in the context of Pakistani women's claims, it cannot now be considered separately from, and indeed appears to be inextricably linked to, the key concept of 'internal flight'.

However, it should be noted that positive developments have emerged in connection with its applicability to girls and women from other nations who experience many other forms of domestic violence, including those perceived to be 'country-specific', such as female genital mutilation.

11.7 Pakistan: specific issues

There remain serious and specific difficulties with the regime within Pakistan.

The Constitution of Pakistan (which at the time of writing, November 2007, had been suspended following the declaration of emergency rule by President Musharraf) and the various conventions and declarations signed by the government of Pakistan demonstrate a theoretical commitment to equality and protection for all Pakistani citizens. However, government rhetoric on women's rights can be contrasted with its failure to implement domestic violence legislation and appropriately punish perpetrators of violent crimes.

By putting in place a credible political and judicial framework a foundation could be laid for a significant change in Pakistani society's perception of women. This foundation should include the introduction of appropriate punishments, the creation and implementation of legislation to protect women rights, and the repeal of legislation which discriminates against or persecutes women. Moreover, the government needs to take further steps to introduce the Domestic Violence Bill to demonstrate some form of meaningful commitment to improving women's lives. The fact that the Bill has been pending since 2003 is a clear indicator of the Pakistani government's lack of will in this matter.

Furthermore, there is a need for the government to demonstrate a commitment to improving service provision. Whilst there have been some developments, notably in the creation of additional crisis centres, these will not meet the considerable demand from both the rural and urban areas. The existing poor provision by state-run Dar ul Amans prompts the need for a thorough review of both systems and resourcing.

Meanwhile, the Hudood Ordinances continue to present considerable risk to women and to Pakistani society, engendering further abuse by enabling perpetrators to commit crimes without fear of reprisal or punishment. The parallel judicial system, with dual religious and state laws, creates both confusion and injustice within Pakistani society and demands urgent review.

11.8 Pakistan and the UK: commonalities and differences

Throughout the study we have focused on different, yet linked, elements of systems and practice within the two countries. The need to maintain a critical trans-national perspective throughout the study was reinforced by the fact that certain themes, which appeared to be Pakistani-specific, (for example, corruption and neglect on the part of Pakistani state agencies and service providers), emerged as themes relevant to a critique of the UK because of their influence on women's experiences of seeking protection against domestic violence in the UK.

Earlier chapters drew attention to structural commonalities within the different national contexts. In both contexts there were laws, political structures, cultural norms and socio-economic barriers, which maintained women's subjugation. Criticism of Pakistan can appear to reflect or feed into a homogenised common view of the country as 'corrupted by its practices'. Yet much of the material

within the context of Pakistan presented a more complex picture, demonstrating both corruption and a lack of access to justice, whilst also revealing resistance and campaigning on the part of organisations and individuals and an overarching oppressive regime which clearly did impact on women's lives in harmful ways. At the same time, within the UK context, women increasingly experienced poor quality representation and support from services, and when cases failed as a result, often 'disappeared' into an informal and exploitative socio-economic sector.

There are further disconcerting commonalities in both countries in terms of the poor treatment of women. The lack of a welfare system in Pakistan has exposed women to destitution and yet, within the UK, the 'no recourse to public funds' rule it is recognised that a lack of access to public funds prevents many women from leaving violent relationships. Also, The lack of effective regulation of the NGO sector in Pakistan has contributed to the provision of chaotic, under-resourced services which struggle to meet demand; conversely, in the UK, regulations, bureaucracy and the audit culture have hampered many service providers from responding effectively to women's needs, usually when they most critically need support, for example the inability to provide bed spaces due to the 'no recourse to public funds' rule. In a further example, the connections between men, families, other informal networks, and state agents in Pakistan effectively coerce many women to remain in violent circumstances; in the UK, the intersection between an abuser's tactics (for example the threat to use immigration laws to 'deport a woman following violence) and state laws to remove people in breach of marriage visas, demonstrates a similar process of 'collusion' in the abuse of women..

11.9 Internal flight

The controversy surrounding the concept of internal flight stems from the lack of uniform and principled application of it by decision-makers. Despite this confusion and lack of consistency, it is increasingly used to deny Pakistani women asylum when they cannot produce 'enough' or 'appropriate' evidence to negate it. There appears to be considerable resistance among decision-makers to accept testimonies, even when evidence of the danger of internal flight is compelling. The prevailing view which emerged from the research was that decision-makers were unwilling to engage with the specific nature of harm presented by internal flight and with the concept of 'undue hardship' in a Pakistani context. Whilst decision-makers appear willing to attach some importance to the impact of internal flight on children, there is insufficient consideration of potential harm to the mother. Tactical opportunities for legal practitioners (where there are children) are useful; however, the shift in emphasis towards protection for children is ultimately dangerous in its compromise of Pakistani women's entitlements to protection.

11.10 Children

This study was primarily focused on adult women, not on children, a distinction which was not always possible in either of the UK and Pakistan contexts. The complex matter of the relationship between the interests of women and children came to the fore during the study. We identified a range of circumstances in which women were regarded as not fully adult, mothers were themselves treated like children, and where children were somehow deemed to be women. For this study, the overarching feature of these complex intersections is the nature of (predominantly) male power and control, manifested through domestic violence, to regulate women *and* (usually female) children. This in turn has highlighted the complex interplay between domestic violence and women's action/inaction where children's needs are also to be considered. This is further complicated by the needs and rights of children, which exist separately rather than in isolation from, women in domestic violence situations.

This raised two key issues: the role of children when they are present when domestic violence takes place (for example, as 'tools' for negotiating safety) and the effects on them, not only of what they witness, but also of the process of accessing safety which they subsequently experience. The central challenge for both women's rights and children's rights advocates is to continue to find appropriate ways of recognising the 'indivisible and interconnected character of rights' (Gready and Ensor, 2005) whilst meeting the particular needs of women and children.

State provision in Pakistan and the UK for protecting children in these situations presented a complex picture. Whilst within the UK provision for child protection is considerably more favourable and 'children's rights' orientated, there are some key features of the UK approach to the protection of

migrant or asylum seeking children which draw a less favourable picture. The UK, in line with other member states, has entered reservations to the UN Committee on the Rights of the Child with regard to protecting *their* rights to legislate on immigration and asylum control, enabling the UK government to limit its international responsibilities to non-British children and to refuse, detain and remove them from its territories.

11.11 Impact of domestic violence and the asylum system on Pakistani women

In both UK and Pakistani contexts, a Pakistani women's complex relationship to her family and culture, combined with the highly stressful process of attempting to find safety, contribute to a high incidence of mental health distress, self-harm and attempted suicide. The isolation of the women is compounded by the psychological harm they have experienced as a result of violence and these also contribute to poor mental health. In many situations women 'disappear', often in order to escape familial threats, or, within the UK, to escape the threat of detention and removal following an unsuccessful asylum claim. This has a direct consequence on their ability to access services, to find shelter, welfare and support, compounding the risk of ill-health. Often, in order to avoid the attention of authorities, including services which they perceive to be agents of the UK state, the potential for their exploitation, for example in drugs and sex industries, heightens their vulnerability. This parallels the experiences of many British women and girls who in the process of escaping familial violence, and to avoid destitution, often find themselves submerged in further abusive situations.

11.12 Service provision in the UK: service 'breakdown'

In the UK, services offering forms of support following domestic violence are largely rooted in the charitable or voluntary sectors, but also include statutory provision. Domestic violence support services were consistently perceived to be poorly resourced, thin on the ground, over-subscribed, unsympathetic, culturally unaware or culturally inappropriate. These were also described as being at their most inadequate at 'crisis point'. The disjointed working relationships between women specific and non-specific voluntary organisations, social services and health professionals has led to 'service breakdown' when women's needs have been at their most critical. A common perception is that they are often unwilling to intervene; whether that is due to complacency or to avoid being culturally insensitive, service providers can unwittingly reinforce negative cultural perceptions of Pakistani women by simply failing to respond to women's needs. However the prevailing perception is that the system of asylum and immigration control, which is linked and indeed 'regulates' service provision to women asylum-seekers and women with insecure immigration status, heightens women's vulnerability to harm.

11.13 Cultural practices and racism within service provision

Previous studies (see Batsleer et al., 2002, and Chantler et al., 2001) described the ways in which 'minoritised' women who are subjected to domestic violence were often treated inappropriately, or not at all, by service providers in the UK. Whilst those studies explored these issues in the context of informing policy and practice in domestic violence services, they highlighted concerns, also raised in this study, relating to the quality of service provision which mirror the underlying allegations of racism permeating the UK's asylum decision-making processes and systems. For a woman who might be considering protection from a violent family situation, her fear of racism from service providers and the immigration and asylum system is more likely to limit her disclosure of violence, and consequently, as already alluded to above, perpetuate it.

11.14 Barriers to access: service provision in the UK and Pakistan

There were barriers to accessing service provision in the UK which alienated women and prevented them from accessing support, and as a result increased their risk of harm. Legal services were highlighted as increasingly under pressure as a result of continual reductions in the level of legal aid resourcing. In addition the immigration and asylum system and the regulation of the sector as a whole, came under criticism for a general lack of knowledge, understanding and expertise in domestic violence cases. Inconsistent police practice across the UK was also described as a critical barrier to women's access to support and safety. Some perceived this to be indicative of the police's inability

to create uniform practices to tackling violence. References to the cultural framework of Pakistani women's negative experiences of police involvement in Pakistan is also indicative of the parallels with some police practice in the UK, which has led many women to not approach the UK police. The provision and quality of interpretation services also came under scrutiny. Fundamental flaws in the nature, quality and delivery of this vital service were described, which could contribute to the ill-treatment that women experience. The issue of reliance on children as interpreters has previously been summarised, yet the ethical difficulties this raised needed to be addressed in all contexts. The need to attend to training and awareness issues within legal services, the police, and critically, interpretation services remained a pressing issue.

11.15 No recourse to public funds

Specific rules of immigration and asylum control came under scrutiny, notably the rule on 'no recourse to public funds' (NRPF) and the system of accommodation and support administered by the Border and Immigration Agency (BIA). For women with insecure immigration status, who seek support against domestic violence, the NRPF rule now represents a serious barrier to accessing both services and justice within the immigration and asylum systems. National campaigns, such as the Southall Black Sisters campaign to abolish the rule are beginning to gain momentum to address these discriminatory provisions.

11.16 The asylum support system

The practice, which was adopted by the asylum support system, of dispersing asylum seekers throughout the UK presented further legal and support issues. The dispersal system was regarded with suspicion and frustration by practitioners not only because it interrupted necessary care and support, but also because it created inconsistency and a lack of quality within legal representation in women's asylum cases. Furthermore, NASS has provided contradictory responses to women's refugees about whether they will provide resources to enable women asylum seekers to move to safer spaces (following domestic violence from partners whilst in the UK or whilst in the asylum system). This has led to much confusion about its stated policy, a problem compounded by further inconsistencies in practice across different regions.

11.17 Barriers for service providers

There are clearly practical barriers which are experienced by service providers and which impact on their ability to deliver services to asylum-seekers. For example, insufficient resources, and lack of reliable and suitable interpreters means that service providers are compromised in the level of support they can deliver. Undoubtedly these barriers impact on the delivery of services to the whole spectrum of asylum-seekers, not just Pakistani women. Furthermore, these obstacles may be indicative of the inherently discriminatory and inappropriate practices of some services providers identified during the study.

11.18 Improving services in the UK: identifying ways forward

Whilst concerns exist about how structural barriers reinforce oppressive practices at service provision level, and their consequent role in sustaining the distress that many women experience, in the UK, there are developments. Discourse and discussion are ongoing across many sectors on appropriate ways of devising holistic care and integrated practice for and with black and minority ethnic individuals and communities to improve their access to health and social care services and other welfare and support. These discussions reflect on and address the current need to respond to the heterogeneity of women and their individualised characteristics in changing and migrating populations,

11.19 Service provision in Pakistan

The lack of access to appropriate provision in the UK can be compared in some respects to the inadequacy of provision in Pakistan. However, the particularly severe lack of provision in Pakistan creates extreme difficulties for women who are fleeing domestic violence. This inadequacy of service provision can be seen at all levels, from a lack of legislative protection and provision, to over-subscribed women's shelters which are limited in number and in resources, and to the lack of rehabilitation or aftercare. There is no system of re-housing women who have left their family homes; this fact

alone plays a major role in the decisions many women make to return to violent relationships. This is exacerbated for many women by their weak socio-economic position, lack of education and employment opportunities. In addition, the attitudes towards 'lone' women that pervade society in Pakistan often result in their isolation and ostracism, exposing them to further harm.

11.20 Shelters in Pakistan

This study found that the majority of shelters in Pakistan are under resourced and offer little or no childcare provision. Policies within shelters which exclude boys over the age of five create severe and traumatic dilemmas for women, and provide disincentives for women to access shelters. They are usually overcrowded, provide sub-standard facilities, rarely have a key worker system, offer poor working conditions, no casework supervision, and no training or worker accountability. The workers also often appear to run shelters with very little input from trustees. Life for a woman after leaving a shelter often means returning to a violent situation, remarriage or returning to her family if they are willing or able to allow her back. In the absence of any of these 'options', women are often open to sexual exploitation to support their children and overcome the risk of destitution. Two crucial issues prevent women from living independently; firstly the need for re-housing and secondly the need for financial assistance. Unlike the UK, in Pakistan there is no provision for re-housing or financial assistance after leaving a shelter apart from the *Bait-ul-Mal* (a *zakat* fund) collected by the government and distributed at its discretion, if at all. No woman interviewed for this study had been provided with funds from this source. Once a woman leaves a shelter there is no mechanism for protecting her within the framework for women's services. There is also little tracking of what happens to women after they leave the shelter and workers often rely on newspapers to discover reports of honour killings of women previously in their 'care'.

Women's service providers in Pakistan often attempted to provide 'holistic' services, such as legal advice, counseling, arranging remarriages, identifying employment and facilitating reconciliations. Yet despite this willingness, issues of poor working conditions, a lack of management, monitoring and accountability, low wages and under-resourcing all impact on their ability to adequately, provide any of these. Often, shelters were not able to provide the specialist skilled workers to address the particular needs of some women, for example, women with burns or women who had been subjected to gang rape.

The absence of provision for young women and girls reinforces the contention that girls are often perceived as 'adult women'. The lack of attention to the specific needs of girls who have experienced domestic violence highlights a pressing need to address the rights of individuals, who are in fact children, in these circumstances.

Using men as trustees of some shelters, and as employees, appears to be a common and acceptable practice. The support of the male counterparts to engage in culturally sensitive and religiously contentious issues is a key element in raising awareness of issues both within political parties and within wider society. However, this particular development within service provision in Pakistan is highly indicative of the nature and extent of risk to women, including women workers, and presents a fundamental ideological and political difference in practice between women's service providers in the UK and Pakistan.

11.21 Building an infrastructure for service provision in Pakistan

Given the poor state of service provision for women in Pakistan, a thorough review and evaluation of existing services and of future need in each of the regions, including both rural and urban areas, is urgently required to begin the process of building effective support. Certainly the role of international NGOs is critical, given their access to resources, and their responsibilities to facilitate development within services. Furthermore, their responsibilities to distribute resources present considerable opportunities for long-term investment in developing partnerships which, in turn, can effect change within Pakistani services and potentially women's lives.

11.22 Training

There was a great need within the services we consulted in the UK for 'cultural awareness' training, or training on domestic violence issues, and equally a willingness to engage with such training if it were

provided. Appropriate training is an essential tool which can enable service providers to avoid critical errors in gathering information and enable appropriate intervention. Significantly, service providers' often misplaced concerns over cultural awareness, or gender-specific cultural norms about acceptable behaviour, could work to close down women's access to services. However, appropriate training, whilst vital, does not represent an adequate response to attend to the many complex themes highlighted in this report. 'Cultural' shifts in behaviour and in attitudes are equally, if not more critical, to laying the foundations for protecting women from abuse.

Similarly in Pakistan, calls for training on cultural awareness, on domestic violence and human rights issues are an integral stage in developing better provision, attitudes and change in 'culture'. Again, such training remains a useful but limited aspect of the ways in which the wider issues require attention.

11.23 Evidence: credibility, protection and internal flight

The research highlighted some fundamental problems in the treatment and interpretation of evidence in Pakistani women's asylum cases. Such evidential and case work issues affect asylum seekers from many diverse backgrounds, not just Pakistani women. The difficulties associated with determining 'credibility' and the problematic ways in which the asylum system tackles concepts of 'objectivity' and 'subjectivity' impact on all those who seek asylum in the UK.

Yet there remain specific concerns for this study regarding evidence in Pakistani women's cases. The formulation in refugee law which led to the recognition of Pakistani women as 'members of a particular social group' is undermined by misplaced and inaccurate perceptions of the nature of protection and the viability of internal flight in Pakistan. The depth of detail which emerged from interviews conducted in the UK and Pakistan is indicative of the over-simplification of protection issues, and indeed, is indicative of the structural and 'cultural' influences on decision-makers which have prevented detailed scrutiny of concepts of protection and internal flight in the context of Pakistan.

From the viewpoint of the Home Office the detail is located in its COIS country reports. Yet criticism of the reports which emerged during this study, notably that they lacked detail and 'objectivity', is supported not only by previous studies, but also by the Home Office's subsequent creation of the APCI. Described as an 'independent' body, the APCI is attempting to raise the standard of the reports. However, it has a relatively narrow remit, and our critique/analysis of its assessment of the 2006 Pakistan country report demonstrates a flawed approach to its own scrutiny of the COIS reports. The APCI failed to address the lack of depth, detail and reliable sources in the 2006 COIS report concerning Pakistani women's particular position in society, the familial, class, religious and societal structures which lead to women's ill-treatment and the considerable lack of attention to the complexities of internal flight.

Considered alongside credibility issues, it appears that other processes are in operation which influence decision-making. Pakistani women's accounts in this report were often, though not always, found to be credible and yet the views of many participants suggested that their credibility is effectively immaterial to the outcome of their cases. Misplaced judgements about women's class, religion, and other circumstances, misunderstandings about the nature of internal flight, and doubts about the 'credibility' of expert evidence all seemed to influence decision-makers. Conclusions were often drawn on the basis of these misconceptions that Pakistan women, as asylum seekers, were rarely 'genuine' in the sense of needing protection outside of Pakistan. This response supported the participants' view that there is an existent 'culture of disbelief' which still permeates decision-making in the UK asylum system.

11.24 Safe to return?

In Pakistan, women are required to travel vast geographical distances and to overcome considerable practical, cultural and psychological barriers to try and seek safety. Conversely, the vastness of geographical possibilities within the country are frequently cited in UK asylum contexts as indicators of the 'safety' of relocation. The tensions presented by these opposing positions suggest a need to explicate what 'safety' in the context of this study means. Notions and concepts of safety, commonly associated with the provision of and access to physical, material, structural, social and psychological support are heavily circumscribed in Pakistan. This study demonstrated the limited and temporary circumstances in which women reach a 'place' which can be deemed 'safe'.

Similarly, tensions abound when considering 'to where' in Pakistan a woman should 'return', since this study demonstrates that it does not, and cannot, refer to the place, house, family or situation from which many Pakistani women have fled. Whilst a woman's 'return' might take her to a new 'place' within Pakistan, her safety is not assured since, for example, she is likely to lack support networks, be isolated, and be unable to retain anonymity. In a UK context, return is more commonly associated with an involuntary process of removal to a 'safe' airport in the country of origin, beyond which the UK state absolves itself from any further responsibility. For the purposes of this study, this is indicative of further structural parallels between the UK and Pakistan and again, misconceptions concerning the nature of 'return' and dangers to women.

11.25 Areas for further research

In the course of this study, we have identified a number of key areas which merit further research. These are:

1. Further quantitative and qualitative evaluation in both the UK and Pakistan across a wider geographical remit, involving a thorough cataloguing of the barriers to, and gaps in, legal and other support services that have been identified in this study.
2. Examination of the relationship between the interests of children and those of women in cases in which domestic violence and asylum issues intersect, in a national and trans-national context. Specifically with regard to children, the impact of these issues on their physical and mental health, their well-being, education and their perceptions of how systems and services operate to protect them. Additionally, the nature and extent of provision in shelters for children, the interface between shelters and other services providing for children both in the UK and Pakistan and the particular challenges for children in these contexts.
3. Further study of developments in the definition of 'membership of a particular social group' in relation to evolving and emerging concepts and definitions of violence. This should include an exploration of how, keeping in mind the importance of the Convention ground, it nonetheless gives rise to conceptual challenges imposed by tensions between notions of particularity and generality as applied to Pakistani women.
4. A detailed investigation into the long-term physical, and psychological effects for Pakistani women and children of seeking refuge and protection against domestic violence.
5. Research to devise and develop services in the UK and in Pakistan in ways which offer positive interventions for Pakistani women who experience domestic violence, specifically services offering mental health support. In Pakistan, this applies specifically to the development of shelter and crisis centre provision, not only in the context of building on the physical infrastructure of these support services, but also ways in which 'holistic' services are best utilised.
6. An examination of the impact of new and emerging legislation in the UK on immigration control and on domestic violence in Pakistan.
7. A consideration of the findings of the Independent Asylum Commission's report, due for publication in 2008.
8. Beyond Pakistani women, research to identify and establish appropriate links and experiences of other women nationals who seek refugee protection against domestic violence.

11.26 A cautionary note: Pakistan, emergency rule and the significance of this study

As this report goes to press, President Musharraf's imposition of emergency rule, suspension of the judiciary, and corresponding unrest in Pakistan, continue. The outcome of widespread arrests of the political opposition, popular and middle class resistance and mobilisation, along with the pressure exerted by the international community, remains unclear - including the calls for Musharraf to commit to holding elections, to remove his army uniform and to stand down as President. It is indeed a volatile and uncertain situation.

However, for the purposes of this study, we end on the following cautionary note. It may appear to some that the position of women in relation to domestic violence pales into insignificance in relation to current events in Pakistan. Moreover, it may seem to some readers that changes in leadership and senior administrators could render the analyses generated in this study less relevant, or even obsolete. While we would like to hope that such change is possible, this study suggests that the complexity of the relationships between domestic violence and cultural and political structures in Pakistan, including the parallel legal and administrative systems, mean that much more than a cosmetic change of personnel, or even legal reform, is needed to alter this situation. Rather, changes that will make a significant impact on domestic violence rates, and service provision, will need to be structural and systemic. It is anticipated, therefore, that the analyses presented in this report will remain of substantial relevance until such time as the structural, legal, and systemic shortfalls and problems identified here in both the UK and Pakistan are addressed.

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Appendix one: Interview schedules

1. Schedule for the Home Office

Name:

Role in Organisation :

Worked on cases of this kind?

1. Policy

- a. How would you describe current Home Office policy in dealing with cases of this type?
- b. What issues do you face in working in this area of policy – challenges / difficulties?

2. Assessing a case (if the interviewee has knowledge of assessment)

- a. What issues would the Home Office take into account when assessing a case of this kind?
- b. Are there any particular difficulties you face in developing guidance for assessing cases of this kind?
- c. How would you assess the credibility of a woman seeking asylum on the grounds of domestic violence?
- d. Have there been any changes in the way you assess these kinds of cases since you started
Yes / No
If you said yes then please tell us what has changed?

3. Knowledge / Information needs

- a. Do you use in country reports in your work? Yes / No
If you answered yes, how useful are they in assessing a case? (particularly in the case of Pakistan)
- c. Is there any additional information that would help you in assessing these cases?
- d. Do Home office workers or assessors have access to training in any of the following areas?
How domestic violence is viewed in Pakistan
In country conditions in Pakistan e.g. customary practices
Considering applications of women from tribal/feudal areas
Honour killings
Forced Marriage
Economic situation of women
- e. Is there any other training that you think workers should have access to?

4. Woman's experience

- a. What issues do you think the women face when going through the asylum process?
- b. Are there any parts of the process that you think are carried out particularly well?
- c. Are there any parts of the process that you feel could be improved?
- d. How often are women provided with women interpreters in these cases?
- e. Are there any issues which women are reluctant to discuss?
If so what kinds of issues are they?
- e. is there anything that you think would help a woman to disclose any difficult or sensitive issues?

5. Is there anything else you'd like to tell us about this issue?

2. Schedule for UK Judges

Name

Areas / regions worked

Adjudicated in asylum cases of this kind?

1. Assessing a case

- a. What kind of evidence do you think is useful to you in these cases?
- b. What issues do you take into account when hearing a case of this kind?
- c. How would you assess the credibility of a woman seeking asylum on the grounds of domestic violence?
- d. Have there been any changes in the way you assess these kinds of cases since you started
Yes / No
If you said yes then please tell us what has changed?

2. Are all Immigration Judges trained to know that often disclosures of traumatic events like rape can come at different stages in the asylum process – if so, what guidelines are referred to?

- a. Do you use your own guidelines?
- b. Do you have UNHCR guidelines or?
- c. Do you use the Home Office guidelines?

3. Knowledge / Information needs

- a. How useful do you find the Home Office in country report on Pakistan in assessing these cases?
- b. Do you think there is sufficient information on internal flight in Pakistan?
- c. What type of evidence can be considered in assisting the judge when considering such cases?
- d. Is there any training available to you around –
How domestic violence is viewed in Pakistan
In country conditions in Pakistan e.g. customary practices
Considering applications of women from tribal/feudal areas
Honour killings
Forced Marriage
Economic situation of women
Please tell us about this training -
- d. Is there any additional information or training that would help you in assessing these cases?

4. Do you identify cases which are more appropriate for an all female court or is it down to the rep to identify?

5. Experience of the woman

- a. How often would you say that women are provided with all female panels in these cases?
- b. How often are women provided with female interpreters in these cases?
- c. Do you ever have any problems in accessing female interpreters? Yes / No
If you said yes then tell me what they were –
- d. What do you think would help a woman to discuss any difficult or sensitive issues?

3. Schedule for UK Police

1. Area covered by police station
2. Rank of officer
3. Role of officer
4. a How do you define domestic violence?
b How much of your time is spent on dealing with domestic violence cases?
c Can you describe the policies/practices/procedures you have to follow in DV cases?
d Describe the training on DV issues for police?
5. Can you provide female officers when dealing with cases of domestic violence?
6. Describe the procedures you follow when someone makes a complaint of domestic violence?
Prompts –
Who deals with the woman? / What happens to her – accommodation etc?
7. What specific difficulties do you face if the woman is Pakistani?
Prompts –
Are there any language difficulties?
Access to interpreters?
Gender of Interpreters?
Problems with accommodation – funding etc?
Any difficulties with the family?
Evidence collection / reporting?
8. Are there any issues that you find Pakistani women are reluctant to discuss? Yes / No
If so what sorts of things?
Why do you think this might be?
9. Are there any specific difficulties in prosecuting cases of domestic violence involving women from Pakistan?
10. Is there anything else you think is relevant in these cases?

4. Schedule for UK Public and Voluntary Sector Service Providers

1. Name and Address of Organisation
2. Which sector would you say your organisation belongs to?
3. What do you provide/ How are women put in contact with your service?
4. Are services free at the point of delivery? Yes / No
5. Do you work with Pakistani women asylum seekers? Yes / No
 - a. If so, what regions of Pakistan have women come from?
6. What is the typical journey of a Pakistani woman arriving at/accessing your services?
 - a. Can you give an example/s of a Pakistani woman you have worked with who wasn't a 'typical' case?
7. As a worker what issues do you face in working with women who are seeking asylum from Pakistan on the grounds of domestic violence?
8. In your opinion, is the law in the UK is adequate to protect women from domestic violence?
9. How effective do you think the current systems in the UK are in dealing with DV?
10. Do you think there are any particular issues for Pakistani women who have experienced domestic violence?
11. Pakistani women can claim asylum on the grounds of being a group which is persecuted in their home country. What do you think of this?
12. Have you worked with a woman / women who has been refused asylum on the grounds of domestic violence and returned to Pakistan?
 - a. If you answered yes, please tell us what you know about what happened when the women were returned to Pakistan.
13. Did your clients feel that they would be able to live independently in Pakistan?
 - a. Can you tell us why they thought this?
14. Are there any changes that would make your work with this group of clients more effective?
15. Women who come to the UK as sponsored spouses, and experience domestic violence, sometimes claim asylum, have you worked with any of these cases?
16. What reasons did they give for being unable to return to Pakistan?
17. Is there anything else you'd like to tell us about your work with either of these groups of women?

5. Schedule for UK Lawyers/Barristers

1. Name:
2. Role:
3. Organisation / Firm :
4. Have you had any cases of Pakistani women who were claiming asylum on the grounds of domestic violence?
 - a. How many cases would you say you have worked with?
5. Have you had any cases of sponsored spouses who were claiming asylum on the grounds of domestic violence?
 - a. How many cases would you say you have worked with?
6. What stage of procedure are the cases at ?
7. Are there any common factors in the cases?
8. What experts do you use in these cases?
 - a. What are the characteristics of the experts preferred by the Home Office in these cases?
9. In your opinion, is the law in the UK is adequate to protect women from domestic violence?
 - a. Please tell us why
10. How effective do you think the current legal system is in dealing with cases of domestic violence?
 - a. Do you think there are any particular issues for Pakistani women who have experienced domestic violence?
11. What are the specific issues you have to address when preparing a case for a Pakistani woman claiming asylum on the grounds of domestic violence?
12. What are the specific issues you have to address when preparing a case for a sponsored spouse from Pakistan who is claiming asylum on the grounds of domestic violence?
 - a. What would be an ideal piece of evidence to resolve such cases?
 - b. How would you structure the evidence within the case?
 - c. How would you present it to the Home Office?
13. What do you think are the factors that influence a decision in asylum cases of this kind?
14. Do you think there have been any changes in the way cases are assessed?
15. Have you worked with a woman / women who has been refused asylum on the grounds of domestic violence and returned to Pakistan?
 - a. If you answered yes, please tell us what you know about what happened when the women were returned to Pakistan
16. Did your clients feel that they would be able to live independently in Pakistan?
 - a. Can you tell us why they thought this?
17. Are there any changes, legal or otherwise, that would make your work with this group of clients more effective?
18. is there anything else you'd like to tell us about your work with either of these groups of women?

6. Schedule for Refuges and Shelters

1. Name & address of centre/shelter
2. Name of main contact & position
3. How many staff are there in the refuge?
4. How is your refuge funded?
5. How do women find out about your centre/shelter?
5. How many women can you accommodate?
6. How many children can you accommodate? Girls Boys (age?)
6. Do you have any spaces for women with NRPF? Yes / No (Number ?.....)
7. How long can women stay?
8. Do you ever turn women away? Yes / No
 - a. Tell us why you might turn women away?
9. Have you worked with any women from Pakistan who are claiming asylum on the grounds of domestic violence?
 - a. If so, what regions of Pakistan have women come from?
10. What is your policy around confidentiality?
11. Describe how a woman usually arrives at the refuge?
 - a. Are there any differences in the way Pakistani women arrive at the refuge?
12. What rules do the women have to follow in the refuge?
13. What services are provided for children whilst they in the refuge?
14. What support do the women receive while they are in the refuge?
15. Are there circumstances when you would evict a woman?
 - a. If so – for what reasons are women usually evicted?
 - b. What is the procedure for eviction?
16. Is there any support available to the women after they leave the shelter?
 - a. Please tell us what support can be provided to women when they leave.
 - b. How long would you provide support to a woman leaving the refuge?
17. What issues do you face in working with this group of women?
18. In your opinion, is the law in the UK is adequate to protect women from domestic violence?
19. How effective do you think the current systems in the UK are at dealing with cases of domestic violence?
 - a. Do you think there are any particular issues for Pakistani women?
20. Pakistani women can claim asylum on the grounds of being a group which is persecuted in their home country. What do you think of this?
21. Have you worked with a woman / women who has been refused asylum on the grounds of domestic violence and returned to Pakistan?
 - a. If you answered yes, please tell us what you know about what happened when the women were returned to Pakistan
22. Did your clients feel that they would be able to live independently in Pakistan?
 - a. Can you tell us why they thought this?
23. Are there any changes that would make your work more effective?
24. Women who come to the UK as sponsored spouses, and experience domestic violence, sometimes claim asylum, have you worked with any of these cases?
 - a. What reasons did they give for being unable to return to Pakistan?

7. Schedule for UK Victim/Survivors

Asylum Seekers –

1. Can you say why you left your home in Pakistan?
What region of Pakistan? What was your family like in Pakistan? What was your level of education/ Your job? Were you subjected to physical or other kinds of violence? How was your physical and mental health affected by the violence? Who was violent to you /How long did you suffer violence? Children (if applicable) subjected to violence? How were they affected by the violence?
2. How did you arrive at the shelter/place where you are staying in the UK?
How did you travel to the UK? Did you need money? What happened when you arrived / what was the process? What help were you offered – legal, financial, emotional? If not, how did you get help, who has helped you?
Were interpreters used? If so were you offered a choice of gender?
3. How do you feel about applying for asylum in the UK?
How much do you feel you understand the process? Are there any things you don't understand? What has been most difficult for you? What have you found useful in the process? Is there anything that has helped?

Sponsored Spouses –

1. Can you tell me about why you came to the UK?
Was the marriage arranged? How happy were you with the arrangement? Was your husband related to your family – if so how? Were you subjected to physical or other kinds of violence? How was your physical and mental health affected by the violence? Who was violent to you /How long did you suffer violence? Children (if applicable) subjected to violence? How were they affected by the violence?
2. How did you get to the place where you are staying?
What arrangements did you make? Did you [plan to leave or leave suddenly?
Did you get any help, if so what? How did you know who to contact or where to go? Did you have any money / possessions? Did you bring your children?

Both Groups of Women –

1. Do you feel safe now?
How long have you been in the accommodation? Do you have private space? Can you come and go as you wish? Can your children stay? Do you have access to services – legal/medical etc? Do your children have access to schools / health services etc? Are you in touch with your family in Pakistan? Are you in contact with Pakistani community here? Is there anyone who knows where you are?
2. What do you think will happen to you and the children (if applicable)?
What are your options? Do you know how you will get accommodation? Do you think you will be able to work? Education for children (if applicable)?How do you feel about surviving on your own here in the future? Do you have any fears about being returned to Pakistan? What would be the best outcome in the future? What would be the worst outcome in the future?

8. Schedule for Government Officials in Pakistan

Name of official:

Rank of official:

Role of official – which government department:

1. Do you think the current law is adequate to protect women from domestic violence?
 - a. Please tell us why
2. How effective are the current systems at dealing with cases of domestic violence?
3. What do you see as the barriers to effectively addressing domestic violence in Pakistan?
 - Local & family practices
 - Police reluctance/lack of services
 - Cultural or religious practices
4. Internal flight – where else does a woman go after leaving family home OR the shelter/centre?
 - Reconciliation/remarriage?
 - Process of internal flight – where does she go?
 - Where can she go?
 - How does she get there / Money etc
 - Notify anybody? E.g. police?
5. How easy would you say it is for a woman to live independently in Pakistan?
 - Accessing accommodation
 - Getting a job
 - Travelling alone?
 - Living without a male?
 - Education for children?
 - Accessing local services?
 - Requirements to register in a new town etc?
 - Health issues?
 - Religion?
6. What needs to change?
 - The law? Systems and structures?
 - Customary practices? Family practices?
 - At societal level? Perceptions?
 - Locally/regionally/nationally/internationally?
7. Open space for any additional comments/thoughts/ideas?

9. Schedule for NGO's , INGO's and Other Service Providers in Pakistan

1. Name and Address of Organisation
2. Which sector would you say your organisation belongs to?
3. What do you provide?
4. How are women put in contact with your service?
5. How many workers are there in your organisation?
6. Which services do they work for?
7. Are services free at the point of delivery? Yes / No
- 8.a What is the typical journey of a woman arriving at/accessing your services?
 - Prompt-How does find out about your service?
 - Physical arrival at your service?
 - Children? Health issues?
 - Disability issues?
 - Patterns to typical cases?
 - Where women likely to come from?
 - Geographically?
- 8.b Can you give an example of an atypical journey of a woman arriving at your service?
 - Prompt-How does find out about your service?
 - Physical arrival at your service?
 - Children? Health issues?
 - Disability issues?
 - Patterns to typical cases?
 - Where women likely to come from?
 - Geographically?

10. Schedule for Police in Pakistan

1. Area covered by police station
2. Rank of officer
3. Role of officer
- 4.a How do you define domestic violence?
- 4.b How much of your time is spent on dealing with domestic violence cases?
- 4.c Can you describe the policies/practices/procedures you have to follow in dv cases?
- 4.d Describe the training on DV issues for police?
5. Do you have any female officers specifically dealing with cases of domestic violence?
 - a. If so, may we speak to them?
6. Describe the procedures you have to follow when someone makes a complaint of domestic violence?
Prompts –
Who deals with the woman?
Could you explain the different stages of registration?
7. Describe your role in the complaint?
Prompts –
Do you register the complaint?
What details do you take?
How do you deal with the woman?
8. Do you get involved with mediation/reconciliation? Yes / No
If yes, can you tell us about this process –
Prompts -
Do you work with the husband / family / woman?
How do you see the role of mediation?

11. Schedule for Crisis Centres and Shelters in Pakistan

1. Name & address of centre/shelter
2. Name of main contact & position
3. Is the centre / shelter staffed? Yes / No
 - a. If so, how many staff are there?
 - b. Describe the roles and responsibilities of the different staff
4. Can you describe the resources you have to provide your services?
5. How do women know of your centre/shelter?
4. How many women can you accommodate?
5. How many children can you accommodate? girls/boys?
6. Do you ever have to turn women away? Yes / No
7. What is the maximum period a woman can stay?
8. Tell us about any problems you have in finding space for women?
9. Do you accept referrals of women who are not Pakistani nationals?
11. Do you offer any counselling to –
 - a. Women Yes / No
 - b. Children Yes / No
12. Do the children in the shelter /centre access any schooling during their stay?
13. Describe how a woman usually arrives at the centre/shelter ?
14. How easy/difficult is it to protect a woman's confidentiality?
15. Are there circumstances when you a woman would be evicted? Yes / No
 - a. If so – for what reasons are women usually evicted?
16. What is the procedure for eviction?
17. Are women able to come in and out of the centre/shelter?
 - a. If so are there any specific rules they have to follow? What are they?
18. Is there any aftercare support available to the women? Yes / No
19. Describe what is involved in preparing for a woman to leave the centre/shelter?
20. Do you think the current law is adequate to protect women from domestic violence?
21. How effective are the current systems at dealing with cases of domestic violence?
22. What do you see as the barriers to effectively addressing domestic violence in Pakistan?
23. Internal Flight – where else does a woman go after leaving family home OR the shelter/centre
24. How easy would you say it is for a woman to live independently in Pakistan?
25. What needs to change?
26. Open space for any additional comments/thoughts/ideas?

12. Schedule for Victims/Survivors in Pakistan

1. Can you say why you came to the shelter/place where you are staying?
Where from/lived?
Family setup? Your education? Your job? Account of type(s) of violence subjected to?
Perpetrator(s)? Duration of violence?
2. What were your options for getting help?
E.g other family members/police? Tell anyone about the violence? If so, how responded? Personal possessions? Children (if applicable) subjected?
Health – physical and mental?
3. How did you arrive at the shelter/place where you are staying?
Did you plan to leave/you left suddenly?
Knew where you were going? Money? Anyone help you?
Type of transport? Length of journey? Travelled alone? Took children?
What were your options?
4. Do you feel safe now?
How long in shelter/place where you are staying?
How long allowed to stay? Can children stay (if applicable)?
Room setup – Safe? Privacy? Confidential?
Practice for coming and going from premises?
Support services? E.g. Legal? Medical?
5. What do you think will happen to you and the children (if applicable)?
Are you expected to return to the family?
What are your options?
How get accommodation? How long for? How get a job?
How financially support yourself/children? Education for children (if applicable)?
How get health care?
Need male protector?
Position of single woman/with children?
6. Any additional comments you want to make?
Impact of your experience on you/children?
What are your concerns right now?
What could have made a difference for you?
Could you have changed anything?
7. Any additional information about personal history
Disability issues – you/your children?
Religion? Bonded labour?

Appendix two: Glossary

1. Pakistani Terms

Chardewari.....	Four walls
Diyat.....	Compensation
Hadd	Forms of punishment ordained by the Holy Quran or Sunnah
Hijab.....	Head scarf / veil
Huq Mehar	Dower
Izzat	Honour
Jirgas	Meeting of elders
Kafir	Infidels
Khula.....	Dissolution of marriage filed by a woman
Mjlis-e-shoora	Parliament
Naib Nazim	Assistant Manager
Nikah Nama.....	Marriage certificate
Panchayat.....	Council of elders
Purdah.....	Veiling
Qatl-i-amd	Intentionally causing death
Qazf	False accusation of zina (adultery and fornication)
Qisas.....	A life for a life
Sardars	Head of tribe
Shariah	Islamic law
Swara (NWFP).....	The giving of women in reparation for an 'insult', known as 'blood money'
Sunnah	The pattern of life of prophet Muhammad which comprises the norm and example for his followers
Syed	Direct descendent of prophet Muhammad
Talaq.....	Divorce
Talaq-e-tafwiz	The delegated right of divorce
Tazir.....	To punish
Tehsil	Sub district
Tehsil Nazim.....	Sub district chief/manager
Thana	Police station
Ulemas	Religious scholars
Vani	Blood money (Punjab)
Wafaqi Mohtasib	Ombudsman
Wali.....	Heir
Zakat	Almsgiving

Zan, zar, zamin	Woman, money, land
Zila	District
Zila Nazim.....	District Chief/Manager
Zina	Offences of rape, abduction, adultery and fornication under the Hudood Ordinances.
Zina bil jabr.....	Rape

1. UK Acronyms

API	Asylum Policy Instruction
BIA	Border and Immigration Agency
COIS	Country of Information Service
NASS	National Asylum Support Service

Appendix three: Details of Pakistani participants

Region: Sindh

Women	Age	Marital Status	Religion	Type of Issue
W1	40	Married	Muslim	
W2	35	Married	Muslim	DV & A / HO / MH
W3	29	Married	Muslim	DV & A / FAM
W4	25	Married	Muslim	FP / FM / MH
W5	36	Married	Muslim	RV / HO / MH
W6	35	Married	Muslim	FAM
W7	13	Married	Muslim	RV / CB / SB / MH
W8	22	Married	Muslim	FP / RV / MH
W9	25	Widow	Muslim	HK/MH
W10	21	Single	Muslim	HK/MH

Region: Punjab

Women	Age	Marital Status	Religion	Type of Issue
W1	20's	Married	Muslim	AFA / DV & A / MH
W2	35	Married	Muslim	DV & A
W3	15	Single	Muslim	DV & A / MH
W4	14	Single	Muslim	DV & A
W5	17	Married	Muslim	DV & A / K & A
W6	19	Married	Muslim	RV / DV & A / MH
W7	18	Single	Muslim	HK / MH
W8	25	Married	Muslim	DV & A / HK / MH
W9	20's	Married	Muslim	DV & A / FM / HK / MH
W10	21	Married	Christian	FC / RV / K & A / SB / MH
W11	16	Married	Christian	FC / RV / K & A / MH
W12	17	Single	Christian	SH & D / MH
W13	18	Single	Christian	SH & D / MH
W14	19	Married	Muslim	FM / DV & A / MH
W15	20	Single	Muslim	SA / MH

Type of Issue Key Code

DV & A	Domestic Violence and Abuse
RV	Rape Victim
SH & D	Sexual Harassment and Discrimination
K & A	Kidnapping and Abduction
FP	Forced Prostitution
HTFP	Human Trafficking for Prostitution
HK	Under threat of Honour Killing
FM	Forced Marriages
AFA	Acid and or Fire Attacks
FC	Forced Conversion
SA	Sexual Abuse (includes incest)
CB	Child Brides
HO	Hudood Ordinance
FAM	False Accusations for Murder
MH	Mental Health Issues
SB / SP	Sold as a bride / Sold into prostitution

Class Breakdown of Participants

20%	Very Poor
20%	Poor
44%	Working Class
16%	Middle Class

Views of the Participants regarding relocation and living independently

All of the participants said that they would find it difficult to live on their own without a man in their lives as society in Pakistan had not evolved with the times to accommodate women living independently.

Views of the Service Providers relating to female victims relocating and living independently.

21.74% of the Service Providers interviewed stated that women from a middle class backgrounds were able to relocate and could live independently. It was acknowledged by the Providers that the women would still be harassed in the community.

78.26% of the Service Providers interviewed stated that it would be virtually impossible for a women from a rural background to relocate and live independently.

Appendix four: List of known shelters and crisis centres In Pakistan

Province	Location of Shelter	Number of Shelters	Crisis Centres
1. PUNJAB			
Shelters funded by the Government			
Dar ul Amans	Rawalpindi	1	1
	Faislabad	1	
	Gujranwala	1	
	Multan	1	
	Bahawalpur	1	
	D.G.Khan	1	
	Sargodha	1	
	Lahore	1	1
	Islamabad		1
	Mianwali		1
	Vehari		1
Shelters run by NGO's			
Dastak	Lahore	1	1
Anjuman-e- Hamayat Islam	Lahore	1	
Apna Ghar	Lahore	1	
Edhi Women's Shelter	Lahore	1	
2. SINDH			
Shelters funded by the Government			
Dar ul Amans	Karachi	1	1
	Hyderabad	1	
	Sukkur	1	
	Larkana	1	
Shelters run by NGO's			
Pannah	Karachi	1	
Gosha-e-aafiyat	Karachi	1	
Edhi Women's Shelter	Karachi	1	
3. NORTHWEST FRONTIER PROVINCE			
Shelters funded by the Government			
Dar ul Amans	Abbotabad	1	
	Peshawar		1
Shelters run by NGO's			
Mera Ghar	Peshawar	1	
	Kohat		1
	Quetta		1

There is also a government run crisis centre in Sahiwal – Azad Kashmir.

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